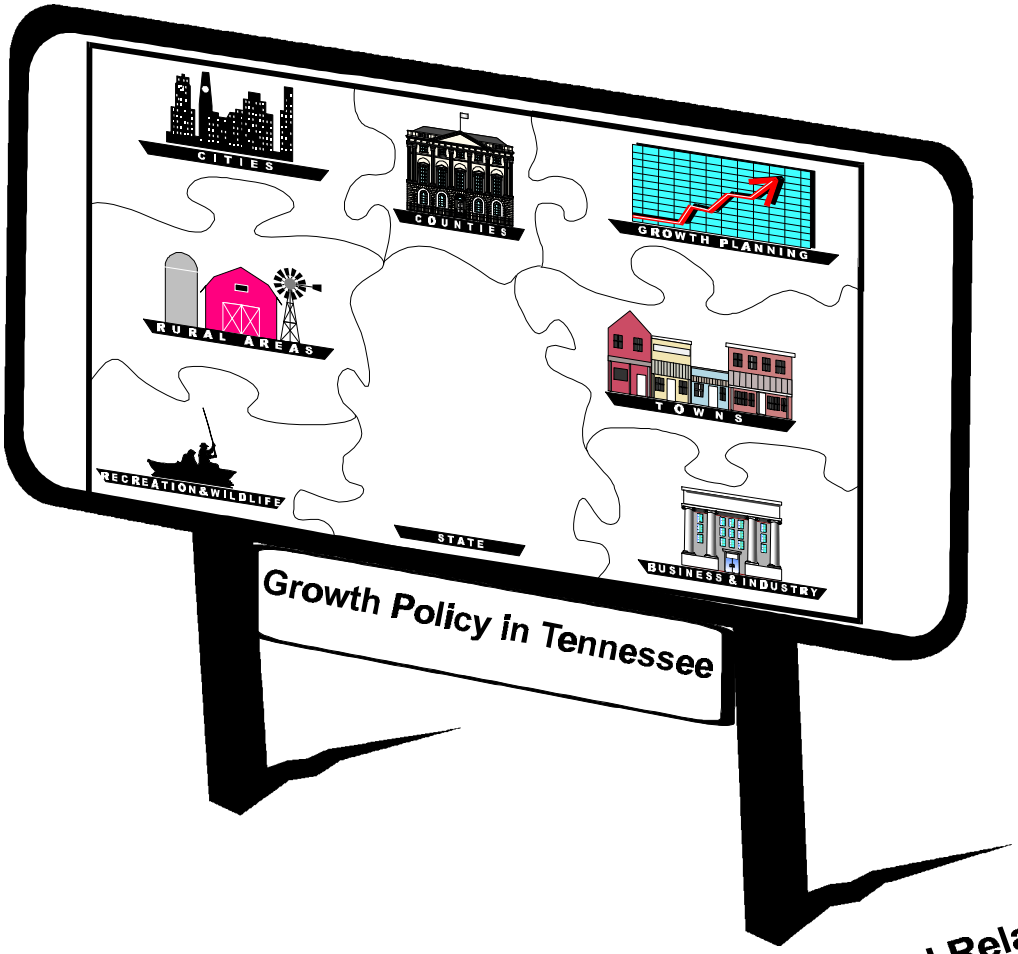
Implementation of Tennessee's Growth Policy Act:

The History of Public Chapter 1101 and the Early Stages of its Implementation



The Tennessee Advisory Commission on Intergovernmental Relations

TACIR

IMPLEMENTATION OF TENNESSEE'S GROWTH POLICY ACT

A Staff Information Report on the History of Public Chapter 1101 and the Early Stages of its Implementation

by the staff of the

Tennessee Advisory Commission on Intergovernmental Relations

March 1999

Acknowledgements and Contributors to the TACIR Growth Policy Monitoring and Reporting Project

Commission Staff

Harry A. Green
Executive Director and Project Director

John Norman
Associate Executive Director

Ross Loder
Special Projects Researcher and Principal Author

Bob Allen
Growth Policy Researcher

Cliff Lippard
Fiscal Projects Researcher

Cherri Brady
Publications Coordinator

Public Chapter 1101 Implementation Steering Committee

Tom Ballard
Associate Vice President for Public Service
University of Tennessee Institute for Public Service

J. Rodney Carmical
Executive Director
University of Tennessee County Technical Assistance Service

Sam Edwards
Planning Advisor

Harry A. Green
Executive Director
Tennessee Advisory Commission on Intergovernmental Relations

John Morgan
State Comptroller
Comptroller of the Treasury

Maynard Pate
Secretary/Treasurer
Tennessee Development District Association

Robert E. Schettler
Training Administrator
University of Tennessee Center for Government Training

Robert P. Schwartz
Executive Director
University of Tennessee Municipal Technical Advisory Service

Bill Terry
Planning Advisor

Don Waller
Director
Department of Economic and Community Development Local Planning Office

Special Thanks

Ann Johnson
University of Tennessee County Technical Assistance Service

Sid Hemsley
University of Tennessee Municipal Technical Advisory Service

Phil Maples
Department of Economic and Community Development Local Planning Office

Jim Rhody
University of Tennessee Center for Government Training

IMPLEMENTATION OF TENNESSEE'S GROWTH POLICY ACT

TABLE OF CONTENTS

INTRODUCTION 3

I. BACKGROUND– THE ROAD TO PUBLIC CHAPTER 1101 5
A. A BRIEF HISTORY OF ANNEXATION 5
B. MOMENTUM FOR CHANGE– PUBLIC CHAPTER 666 OF 1996 AND PUBLIC CHAPTER 98 OF 1997 10

II. THE DEVELOPMENT OF PUBLIC CHAPTER 1101 13
A. THE AD HOC STUDY COMMITTEE ON ANNEXATION 13
B. A BRIEF SUMMARY OF PUBLIC CHAPTER 1101 15
1. Countywide Planning 16
2. Annexation 17
3. Plan of Services 17
4. Incorporation 18
5. Tax Revenue Implications of Annexation 18
6. Miscellaneous Provisions 19
7. Monitoring and Reporting 19
8. Flow Chart of Growth Plan Development 21

III. IMPLEMENTATION DEVELOPMENTS AND PROGRESS 23
A. IMPLEMENTATION STEERING COMMITTEE 23
B. PROGRESS TOWARD IMPLEMENTATION 25
1. Status of Coordinating Committees 28
2. Status of Joint Economic and Community Development Boards 29
C. DEVELOPMENTS 31
1. Opinions of the Attorney General 31
2. Incorporation Developments 38
3. Annexation Developments 39
4. Developments in Consolidation– The Move to "Metro" 42
5. Population Projections 45
D. POTENTIAL IMPLEMENTATION ISSUES 49
1. Resource Issues 49
2. Technical Issues 50

IV. CONCLUSIONS 55

APPENDICES 57

INTRODUCTION

From the outset, those who sponsored and supported Public Chapter 1101 recognized that in creating a comprehensive new framework for local government growth policy in Tennessee, there was the potential that in the years following the creation of the Act, there may be a need for refinement and fine-tuning. In recognition of this potential, the drafters of the legislation included Section 14 of the Act, which provides that:

> ***"Until December 31, 2002, the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) shall monitor implementation of this act and shall periodically report its findings and recommendations to the General Assembly."***

It is in response to this legislative directive that the staff of the TACIR have prepared this initial publication on the implementation of Public Chapter 1101 of 1998. As more information becomes available in subsequent years, the full Commission will have the opportunity to review evidence and submit Commission reports to the General Assembly.

Until such time that the implementation of Public Chapter 1101 is underway in earnest, this publication serves as an interim reporting of the early developments and efforts by Tennessee's local governments in implementing this important new vision for growth policy throughout the state.

While it is far too early to report major developments in the implementation of this Act, this report lays important groundwork for subsequent reports. In this report, TACIR staff have documented:

- **the history that lead to Public Chapter 1101;**
- **the creation of Public Chapter 1101;**
- **the initial efforts of state agencies in implementing the Act; and**
- **the initial efforts of local governments in implementing the Act.**

As the TACIR continues on its implementation monitoring directive, other state agencies, local officials, and policy stakeholders are encouraged to communicate to the Commission their experiences with the Act.

I. BACKGROUND– THE ROAD TO PUBLIC CHAPTER 1101

A. A BRIEF HISTORY OF ANNEXATION

The history of annexation in Tennessee is one of evolutionary change. Annexation has evolved from annexation by private act, to annexation by general law, and finally, through Public Chapter 1101, to annexation by general law within the framework of comprehensive growth policy. *Annexation Issues in Tennessee*, a TACIR Commission Report to the 99th General Assembly, published in 1995, documented the history of the first two phases of annexation in Tennessee and provided the orientation required to arrive at the current phase.

In *Annexation Issues in Tennessee*, TACIR seems to have prophesized the enactment of Public Chapter 1101 by noting that, although not a finding or recommendation of the Commission, it was not unlikely that the General Assembly would some day consider prohibiting annexations not in conformance with long range plans.

***Annexation Issues in Tennessee* resulted from a directive within the state's Appropriations Act, Public Chapter No. 535, Acts of 1993, for TACIR to conduct a study on municipal annexation. While the Appropriations Act offered no specific guidance on the parameters of the required study, TACIR was able to develop a research plan with the assistance of Commission members, local government advocacy groups, and members of the General Assembly's House State and Local Government Committee. This research plan involved:**

- **a review of the evolution of Tennessee's annexation statute;**
- **research of the most important court cases concerning annexation in Tennessee;**
- **a review of annexation statutes of other states;**
- **public hearings across the state to garner the views of public officials and concerned citizens; and**
- **Commission deliberation of resulting issues.[1]**

The core of the report resulting from this study process was a discussion of the evolution of Tennessee's annexation statute and a review of major points raised during the public hearings.

The Evolution of Tennessee's Annexation Statute

---

[1] **John F. Norman and Harry A. Green, *Annexation Issues in Tennessee: A Report to the 99th General Assembly*, (Nashville, Tennessee Advisory Commission on Intergovernmental Relations, 1995), p. 1.**

Annexation, the expansion of a municipality by the extension of its boundaries to include new territory as an integral part of the municipality, has been in existence in the United States since state constitutions were first ratified in the late 1700s. The most often used annexation method in those times was the passage of a private act by a state's legislature.[2]

The power to annex was considered a legislative power because, in the American federal system, local governments are legal "creatures of the state, established in accordance with state constitutions and statutes."[3] Another common method to initiate annexation was a petition from land owners living adjacent to and desiring to join the municipality.[4]

A major complaint against annexation by private act was that, at times, the powers of the legislature could be abused. This abuse could take the form of the passage of annexation acts against the wishes of local government officials and citizens.[5] This fear of abuse was complicated by the increasing urbanization of Tennessee during the two decades following World War II. Tennessee was becoming increasingly more urban, but at the same time traditional core cities were losing much of their economic strength to their suburban fringes.[6] The resulting economic segregation heightened annexation tension as municipalities eyed their newly urbanized fringes, and those fringes sought ways to resist annexation by their core cities.

Despite these concerns, annexations by private law remained the predominant method of annexation in Tennessee until the General Assembly enacted Public Chapter 113 in 1955. Public Chapter 113 resulted from a 1953 vote by the people of Tennessee for a constitutional amendment requiring that all future changes in municipal boundaries be made under terms of a general statute.

The resulting constitutional clause, Article XI, Section 9, provides in pertinent part that "the General Assembly shall by general law provide the exclusive methods by which municipalities may be created, merged, consolidated and dissolved and by which municipal boundaries may be altered."[7] Public Chapter 113 allowed municipalities to annex by either ordinance or referendum. The legislation contained several key features, as follows.

---

[2] Ibid, p. 3.
[3] Quote by Justice John F. Dillon of the Iowa Supreme Court in the 1880s and known as the "Dillon Rule." Quoted in James A. Maxwell and J. Richard Aronson, Financing State and Local Governments, 3rd edition (Washington, D.C.: The Brookings Institution, 1977), p. 11.
[4] Norman, p. 3.
[5] Ibid.
[6] Ibid, pp. 4-5.
[7] Ibid, p. 5.

- **A municipality could annex territory on its own initiative "…when it appears that the property of the municipality and territory will be materially retarded and the safety and welfare of the inhabitants and property endangered…as may be necessary for the welfare of the residents and property owners of the affected territory as well as the municipality as a whole…."**
- **A territory to be annexed had to be "adjoining" the municipality (no definition for adjoining was included).**
- **An ordinance could not become operative until thirty days after final passage, allowing *quo warranto*[8] actions contesting the ordinance.**
- **Larger municipalities had precedence when two municipalities were attempting to annex the same territory.**
- **Remedies to an aggrieved instrumentality of the state were limited to arbitration subject to Chancery Court review.[9]**

The provisions of Public Chapter 113 generally favored municipal annexation interests. Therefore, it is not surprising that Tennessee experienced a considerable amount of annexation in the two decades following the chapter's creation. Most of these annexations were by ordinance. This is evident in the fact that between 1955 and 1968 annexation by referendum was used 18 times while annexation by ordinance was used 716 times.[10]

The momentum in favor of annexation enjoyed by municipalities shifted by the early 1970s. Suburban residents, county governments and utility districts, working to make annexation more difficult, put pressure on the General Assembly to change the law. The 88th General Assembly responded to this pressure with House Joint Resolution No. 159, which directed the Legislative Council Committee to perform a comprehensive study of annexation. In the final report resulting from this study, the Committee acknowledged that:

- **inadequate planning in the urban fringe resulted in poor services and threats to health and safety;**
- **inadequate planning in the urban fringe promoted a duplication of facilities and a waste of taxpayer money;**
- **a proper balance between the interests of the municipality and the fringe is a necessity; and**
- **basic to the adjustment of boundaries is determining who will decide– who should control the process.[11]**

---

[8] A *quo warranto* suit allows the plaintiff to contest the validity of an annexation on the ground that it reasonably may not be necessary to protect the safety and welfare of either the municipality or the area to be annexed.
[9] Norman, p. 5.
[10] Ibid, p. 7.
[11] Ibid, pp. 8-9.

Responding to the report of the Legislative Council Committee, the General Assembly, in 1974, passed Public Chapter 753. This chapter, the first major revision to Public Chapter 113, made several major changes, as follows.

- **A [municipal] plan of service was required to include elements pertaining to police and fire protection, water and electrical services, sewage and waste disposal systems, road construction and repair, and recreational facilities.**
- **A public hearing on the plan of service had to be properly conducted before a municipality could adopt its plan of service. Notice of the public hearing had to be published in a newspaper of general circulation seven days prior to the hearing.**
- **The burden of proving the reasonableness of an annexation ordinance was removed from the plaintiff and placed on the municipality.[12]**

Municipal interests took exception to the revision placing the burden of proof on the municipality, arguing that this amendment "reverses the presumption of constitutionality of legislation in favor of a presumption of unconstitutionality."[13]

Another major revision to annexation law in Tennessee occurred in 1979, when the Tennessee Supreme Court held that *quo warranto* plaintiffs were entitled to have the issue of reasonableness submitted to a jury. This decision, in *State ex rel. Moretz v. City of Johnson City* is described as "the most devastating judicial blow to municipal annexation in the history of the act."[14]

Findings from the Public Hearings

Pursuant to the municipal annexation study research plan, TACIR conducted three public hearings on annexation during Fiscal Year 1994. During these hearings, 45 persons presented testimony to special committees composed of TACIR members. Presenters included:

- **state, county and municipal officials (including public safety officers);**
- **business and home owners affiliated with groups opposing present annexation statutes; and**
- **other private citizens or representatives of organizations with no expressed affiliation with the aforementioned groups.[15]**

---

[12] **Ibid, p. 9.**
[13] **Ibid.**
[14] **Ibid.**
[15] **Ibid, p. 11.**

Annexation Issues in Tennessee **identified following major issues raised during the public hearings:**

- **the adequacy of the annexation notification process;**
- **the appropriateness of unilateral annexation by ordinance;**
- **the reasonableness of corridor annexation;**
- **the loss of situs/state-shared taxes to county government;**
- **planned growth and annexation policy; and**
- **property tax increases in annexed territory.[16]**

These discussions concerning planned growth and annexation policy foreshadowed the development of Public Chapter 1101. Several presenters testified that a problem with the existing annexation law was its lack of a requirement for long-range, strategic planning. They noted that:

- **the lack of a comprehensive plan may inhibit the orderly extension of municipal boundaries and, subsequently, inhibit the orderly and effective delivery of urban services; and**
- **a comprehensive plan allows citizens and policy makers in the city and the county to better judge the effect of an annexation.[17]**

Several municipal representatives echoed these sentiments, noting that:

- **long range plans enable the city planning commission and city council to anticipate when developing areas may need to be or want to be part of the municipality;**
- **long range planning sometimes resolves conflicts within the city legislative body concerning services to be delivered to the areas planned for annexation; and**
- **well-planned annexation helps prevent fragmentation of government, the duplication of government services and the proliferation of new municipal governments and special districts.[18]**

In summarizing, ***Annexation Issues in Tennessee*** **identified three major questions raised by the public hearings on growth and annexation. These questions are:**

1. **should the state require all municipalities to prepare and annually update a comprehensive plan of growth, covering a period of at least the next five years or some other reasonable period as a prerequisite to annexation by any method other than petition;**

---

[16] **Ibid.**
[17] **Ibid, pp. 18-19.**
[18] **Ibid, p. 19.**

2. **should the state require municipalities and counties to work with regional planning bodies on growth plans; and**
3. **should municipal annexations be tied to a statewide comprehensive urban and regional growth plan?[19]**

Significance of the TACIR Annexation Study

TACIR adopted only one recommendation as a result of its annexation study. The Commission recommended that those sections of the Tennessee Code Annotated that address the annexation notification procedure should be amended to include the requirement of a map of the area to be annexed.

While this finding is significant, the greater significance of the study is the role it played in bringing Tennessee officials and citizens together to discuss ways to improve the state's often contentious annexation laws. The TACIR study and the discussions it triggered are among the factors that furthered the momentum for change in growth policy among Tennessee's local governments.

B. MOMENTUM FOR CHANGE– PUBLIC CHAPTER 666 OF 1996 AND PUBLIC CHAPTER 98 OF 1997

As evidenced by TACIR's 1995 report on annexation issues in Tennessee, the creation of a new vision for growth policy in Tennessee was decades in the making. Arguably, the momentum for change gathered strength beginning in 1996. The passage of House Bill 2033 and Senate Bill 2710 by the General Assembly in 1996, which became Public Chapter 666 of 1996, started a process that culminated in Public Chapter 1101 of 1998.

Public Chapter 666 allowed for the incorporation of territory containing as few as 225 persons. The Act was defined quite narrowly. The geographic restrictions on incorporation were found to be sufficiently narrow that the Act had applicability to two small communities, one in East Tennessee and one in West Tennessee.

It was under the provisions of Public Chapter 666, that the community of Hickory Withe in Fayette County sought to incorporate. Suit was filed in the Chancery Court of Fayette County by the Town of Oakland against the Fayette County Election Commission, three petitioners for the incorporation of Hickory Withe in Fayette County, and the Attorney General of Tennessee, seeking temporary and permanent injunctions enjoining an election on the incorporation of Hickory Withe. The Fayette County Chancery Court found that no irreparable suffering would be endured by the City of Oakland pending a final ruling, and the Court declined to issue a temporary injunction.

---

[19] **Ibid, p. 20.**

On August 1, 1996 an election was held, and the voters of the Hickory Withe area voted overwhelmingly to incorporate. Perhaps in recognition that Public Chapter 666 might be held unconstitutional, in 1997 the General Assembly passed far less restrictive legislation that would allow for the incorporation of certain small communities. With the suit over Public Chapter 666 still pending in the Fayette County Chancery Court, Public Chapter 98 of 1997 became law on April 16, 1997, and was to remain in effect for one year from the date the Act became law.

Like Public Chapter 666, Public Chapter 98 allowed for the incorporation of territories with as few as 225 persons. However, Public Chapter 98 did not contain the narrow geographic classifications found in PC 666, thus, it had application statewide for a period of one year.

The City of Oakland amended its original complaint regarding Public Chapter 666 to include the question of the constitutionality of Public Chapter 98. The Attorney General had already opined that Public Chapter 666 was unconstitutional,[20] as there was no rational basis for the narrowly defined population classifications. As such, Public Chapter 666 was not a general law, as is required under the Tennessee Constitution.[21] The Attorney General declined to defend the suit regarding Public Chapter 666, but did defend Public Chapter 98.

In a decision filed October 30, 1997, the Fayette County Chancery Court found Public Chapter 666 of 1996 to be unconstitutional,[22] and adopted the Attorney General's Opinion on PC 666 in full. The Court's decision, authored by Chancellor Tatum, found Public Chapter 98 of 1997 to be unconstitutional on the grounds that the bills that became PC 98 were not considered and passed on three separate days in each house.

In a separate challenge to the constitutionality of Public Chapter 98 of 1997, a Davidson County Chancery Court found the Act to be constitutional.[23] Chancellor Kilcrease considered the consolidated claims for an injunction and declaratory judgment, and adopted the proposed findings of fact and conclusions of law submitted by defendant Brook Thompson, the Tennessee State Election Coordinator and the intervenor defendants David Sanders, David Ranson, James Blount III, and

---

[20] Opinion of the Attorney General No. U96-049.
[21] Tenn. Const. Art. XI, Sect. 9.
[22] Town of Oakland v. McCraw, et al., Chancery Court of Fayette County, No. 11661, filed October 30, 1997.
[23] Tennessee Municipal League v. Brook Thompson, Chancery Court for the Twentieth Judicial District, Davidson County, No. 97-2497-I; also see Tennessee Mun. League v. Thompson, 958 S.W.2d 333 (Tenn. S. Ct. 1997) for a discussion of Chancellor Kilcrease's ruling and subsequent Supreme Court analysis and reversal.

Thomas Leatherwood III. The adopted findings led the Court to conclude that PC 98 was constitutional.

The Tennessee Supreme Court granted an expedited appeal on the Davidson County case, and in a decision dated December 10, 1997, reversed the Davidson County Chancery Court's decision that PC 98 was constitutional. The Tennessee Supreme Court found that the body of the Act was broader than its restrictive caption.

The end product of this extensive legal wrangling was that both Public Chapter 666 and Public Chapter 98 were found to be unconstitutional, and the incorporation elections conducted pursuant to the Acts were nullified.

While the end had come for PC 666 and PC 98, the turmoil surrounding the litigation spilled over into the legislative arena. Ultimately, Lieutenant Governor John S. Wilder, Speaker of the Senate, and House Speaker Jimmy Naifeh declared a commitment to create a comprehensive solution to the problems surrounding annexation and incorporation.

II. THE DEVELOPMENT OF PUBLIC CHAPTER 1101

A. THE AD HOC STUDY COMMITTEE ON ANNEXATION

The Ad Hoc Study Committee on Annexation, established by Lt. Governor Wilder and Speaker Naifeh, worked through the fall of 1997 and into the 1998 legislative session to develop a new vision for growth policy in Tennessee. Under the leadership of its co-chairs, Senator Robert Rochelle and Representative Matt Kisber, the Ad Hoc Committee vigorously pursued a solution that sought to meet the public service demands of commercial and residential growth, while maintaining the character of Tennessee's rural areas.

The two Speakers gave the Ad Hoc Committee a broad charge to study not just annexation and incorporation, but also the very foundation upon which local governance is based. The two Speakers charged the committee with exploring issues surrounding growth policy, to include the following.[24]

1. ***Whether the citizens in an annexed area should have the right to vote.***
2. ***Whether cities should be encouraged to annex areas solely for the purpose of grabbing revenue.***
3. ***Whether cities should take county tax revenues used to fund schools.***
4. ***What measures should be in place to provide for the orderly growth of our cities.***
5. ***Whether 95 counties are enough or too many; whether 300+ cities are enough or too many.***
6. ***Whether the state should establish incentives for combining city and county governments to form metropolitan governments to deal with competing interests and eliminate the overlapping services provided by cities and counties.***
7. ***Whether the sovereignty of the county and the sovereignty of the city have equal dignity.***

The Speakers appointed the following House and Senate Members to serve on the Ad Hoc Study Committee.

Representative Ed Haley	**Senator Ben Atchley**
Representative Ulysses Jones	**Senator Stephen Cohen**
Representative Matt Kisber	**Senator Roscoe Dixon**
Representative Randy Rinks	**Senator Tommy Haun**
Representative Arnold Stulce	**Senator Joe Haynes**
Representative Harry Tindell	**Senator Ron Ramsey**
Representative Page Walley	**Senator Robert Rochelle**

[24] **Undated joint letter issued by Governor Wilder and Speaker Naifeh, available upon request.**

From the earliest stages of Ad Hoc Committee hearings, in addressing the questions posed by the Speakers, it became clear that in the effort to balance divergent and competing interests, a piecemeal plan would not be adequate. Rather, a comprehensive and far-reaching framework must simultaneously balance the many interests and needs of Tennesseans.

The first action of the Ad Hoc Study Committee was to gather input from experts and policy stakeholders.[25] In public meetings held in October, November, and December of 1997, the Committee charged committee staff, all of whom were on loan from other state agencies, with gathering information on Tennessee's experience with growth issues, as well as other states' experiences. The Committee devoted considerable time to policy stakeholder input, including municipal representatives, county representatives, Farm Bureau representatives, private citizens, and others.

The Ad Hoc Committee was staffed from the existing resources of other state agencies. Coordinating authority for the staff effort was assumed by the Office of Research and Education Accountability, a unit of the State Comptroller's Office. Other entities that contributed staff support include the Tennessee Advisory Commission on Intergovernmental Relations, House Finance Ways and Means Committee, House and Senate State and Local Government Committees, and the Senate Education Committee. The State Department of Revenue also contributed a great deal of staff time in support of the Ad Hoc Study Committee on Annexation.

After the information gathering stage was well underway, the Ad Hoc Committee evolved into a legislative working group. Indeed, the group became much like a legislative think tank, through which policy options were considered, enhanced, and ultimately converted into legislation.

The Ad Hoc Study Committee ultimately conceived of a framework that simultaneously addressed comprehensive statewide growth policy, annexation, incorporation, plans of services, situs tax revenues, and other matters.

After the House and Senate passed similar versions of the framework recommended by the Ad Hoc Committee, a Conference Committee resolved differences between the Senate and House. The Conference Committee report was approved by an overwhelming margin in the Senate and House, and the bill was signed into law by Governor Sundquist on May 19, 1998.

---

[25] See Appendix 1 for a list of presenters that were scheduled to appear before the Ad Hoc Study Committee on Annexation. Provided in Appendix 2 is data on Tennessee annexations for the period from 1980 to 1996. As requested by Ad Hoc Study Committee members, this dataset was provided to the Committee during its deliberations.

Public Chapter 1101 of 1998 provided a growth policy law that is, while comprehensive, fundamentally a local prerogative act. The General Assembly provided the processes by which local governments can determine their own future cooperatively, but did not impose a single statewide solution. Public Chapter 1101 provides sufficient flexibility so that local governments may tailor their growth plans to suit the unique character of their area. Another key feature of the new law is citizen involvement. Before cities and counties recommend growth plan elements, at least two public hearings must be held. A county Coordinating Committee is charged with developing the county's growth plan. Like cities and counties, the Coordinating Committee must hold public hearings before adopting a plan.

B. A BRIEF SUMMARY OF PUBLIC CHAPTER 1101

The following is a brief summary of the growth policy legislation that passed the Tennessee General Assembly in 1998. There are numerous exceptions and limitations in the bill which cannot all be covered in a brief treatment; more detailed information is contained in *Growth Policy, Annexation, and Incorporation Under Public Chapter 1101 of 1998: A Guide for Community Leaders* (A joint publication of the University of Tennessee Institute for Public Service and its agencies [County Technical Assistance Service, Municipal Technical Advisory Service, and Center for Government Training] and the Tennessee Advisory Commission on Intergovernmental Relations) (1998). The brief summary of the Act is divided into the following eight sections:

Countywide Growth Policy– how the required countywide growth plan is created, adopted, and amended, as well as the criteria for setting the various boundaries.

Annexation– how annexation is accomplished before and after completion of the required countywide growth plan, including new limitations and requirements.

Plan of Services in Annexed Areas– extensive new rules that govern the creation and enforcement of plan of services for newly-annexed areas, including the county's standing in disputes over plans of services.

Incorporation– how incorporation is accomplished before and after Jan. 1, 1999, including the plan of services requirements for newly-incorporated municipalities.

Tax Revenue Implications of Annexation– how situs-based taxes are distributed between the county and the city following annexations and incorporations.

Miscellaneous Provisions– zoning implications of the Act, the required Joint Economic and Community Development Board, and other significant provisions.

Monitoring and Reporting- provisions for monitoring and reporting on the implementation of the Act.
Flow Chart of Growth Plan Development- visual portrayal of the growth policy process.

1. Countywide Planning

The law calls for a comprehensive growth policy plan in each county that outlines anticipated development during the next 20 years. The initial draft of the growth plan is formulated by a Coordinating Committee, which has a membership composed of representatives of the county, cities, utilities, schools, chambers of commerce, the soil conservation districts, and others.

The county and cities may propose boundaries for inclusion in the plan. After the growth plan is developed, the committee conducts public hearings and submits the plan to each city and county for ratification.

The committee may revise the plan upon objection from these local governments. If the governmental entities cannot agree on a plan, any one of them may petition the Secretary of State to appoint a dispute resolution panel of administrative law judges to settle the conflict. It is important to note that in the event the county and each city ratify the growth plan recommended by the Coordinating Committee (without the involvement of the administrative law judge panel), then the Local Government Planning Advisory Committee (the state-level entity charged with approving growth plans) is required to approve the growth plan. However, once the administrative law judges are empanelled, the Local Government Planning Advisory Committee is charged with performing a content review of the plan. This is true even if ratification of the plan was eventually achieved with the assistance of the administrative law judges.

The deadline for completing and approving plans is July 1, 2001. Once adopted, a plan may not be amended for three years, except in unusual circumstances. The amendment process is the same as that for initial adoption. A visual portrayal of this process is provided below as "Number 8. Flow Chart of Growth Plan Development."

The plan identifies three distinct types of areas: (1) "urban growth boundaries" (UGBs), regions which contain the corporate limits of a municipality and the adjoining territory where growth is expected; (2) "planned growth areas" (PGAs), compact sections outside incorporated municipalities where growth is expected (if there are such areas in the county), and where new incorporations may occur; (3) "rural areas" (RAs), territory not within one of the other two categories which is to be preserved for agriculture, recreation, forest, wildlife, and uses other than high-density commercial or residential development.

2. Annexation

Annexation procedures vary according to whether the annexation takes place before or after the county's growth plan is in place. Before the plan is adopted, a city may annex by referendum or by ordinance. If annexation is by ordinance, the county legislative body may vote to disapprove the action.

After this disapproval vote, the county may file suit contesting the annexation if it is petitioned by a majority of the property owners within the territory. The petition must be filed within 60 days and the suit filed within 90 days of the final passage of the annexation ordinance. The case is tried by a judge without a jury and the burden is on the petitioner to prove that the annexation is unreasonable.

A citizen affected by the annexation also retains the right to challenge the annexation as under previous law. Before adoption of the growth plan, corridor annexations are generally prohibited unless the city also annexes all parcels on one side of the corridor, obtains consent of the county legislative body, or annexes by referendum.

After the growth plan is adopted, a city may use any statutory method to annex property within its UGB, including annexation by ordinance and referendum. Outside the UGB a city may annex by referendum or by amending its UGB (through the Coordinating Committee) to include the new territory.

Amendment of a growth plan, including any boundary it contains, requires the same steps described above for the initial adoption of the plan. Any challenges to annexation after the adoption of the growth plan are heard by the judge without a jury, and the burden of proof is on the petitioner to show that the annexation is unreasonable.

A city may annex upon its own initiative only territory within the county in which the city hall is located, with three main exceptions: (1) at least 7 percent of the city's population was located in the second county on November 25, 1997; (2) the county legislative body in the second county approves the annexation; or (3) the city provided sewer service to 100 or more customers on January 1, 1998. These restrictions do not apply to annexation by referendum.

3. Plan Of Services

For any area to be annexed, a municipality must formulate a plan of services that addresses police and fire protection; water, electrical, and sanitary sewer service; street construction and repair; recreation; street lighting; and zoning. If any of

these services are provided to the area by another entity (except the county), the municipality may omit those from the plan.

The plan must include a description of the level of each service and a reasonable schedule for implementing services in the annexed area which are comparable to those delivered to other citizens of the community. Amendments are allowed only if the changes are not material, if they are necessary because of reasonably unforeseen circumstances, or if they are approved by majority of property owners.

Counties have standing to challenge the reasonableness of the plan before the growth plan is adopted; after adoption, the county has standing only if it is petitioned by a majority of the landowners in the annexed area. Aggrieved property owners have standing to enforce the plan. A municipality in default on a plan of services may not annex additional territory until it complies with the previous plan. These provisions apply to any plan of services which was not finalized by November 25, 1997.

4. Incorporation

Before January 1, 1999, new cities may be incorporated if they meet population and distance requirements contained in previously existing law, as well as the requirements listed below. After this date, a territory may be incorporated only inside a PGA, and only with approval of its growth boundary and city limits by the county legislative body. All newly incorporated cities, both before and after January 1, 1999, are subject to the following requirements: (1) a new city must enact a property tax that raises revenue at least equal to the annual amount the city receives from state-shared taxes; (2) the amount of situs-based wholesale beer and local option sales tax revenues generated in the territory on the day of incorporation continues to be distributed to the county for 15 years, just as if the territory were annexed (see discussion below under "Tax Revenue Implications"); and (3) the city must develop a plan of services similar to that required for annexation.

5. Tax Revenue Implications Of Annexation

When a city annexes territory, the county is "held harmless" for the loss of a portion of tax revenue which was distributed to cities under prior law. Revenue amounts generated in the annexed area by local option sales taxes and wholesale beer taxes that had been received by the county prior to the annexation continue to go to the county for fifteen years after the date of the annexation. Any increases in these revenues generated in the annexed area are distributed to the annexing municipality (note that this does not affect the distribution of the first half of the local option sales tax, which continues to go to education funding). If commercial activity in the annexed area decreases due to business closures or relocations, a city

may petition the Department of Revenue to adjust the payments it makes to the county.

6. Miscellaneous Provisions

There are several sections of the law which affect zoning regulations: (1) Even if a city has received extra-territorial zoning authority under *Tennessee Code Annotated* Title 13, it may not enact zoning or planning regulations beyond its UGB. If it has not been granted this authority, it may nevertheless enact zoning provisions outside its city limits (but inside its UGB) with the approval of the county legislative body. (2) A city may not use its zoning power to interfere with land used for agricultural purposes. (3) Counties have the authority to establish separate taxing districts for the provision of services, and to establish separate zoning regulations for territory in different types of areas (UGBs, PGAs, and RAs).

The law requires establishment of a joint economic and community development board to foster communications among all sectors of the community. The law also allows the creation of a consolidation commission upon petition of 10 percent of the county's voters (prior law required the county and principal city to call for a commission). It also prohibits establishment of any new city school systems.

7. Monitoring and Reporting

The Tennessee Advisory Commission on Intergovernmental Relations is charged with monitoring the implementation of Public Chapter 1101 and reporting its findings and recommendations to the General Assembly.

8. Flow Chart of Growth Plan Development

Depending upon the level of cooperation and agreement on the components of a proposed growth plan, the process for approval may be very simple, or rather complex. A working group of the Implementation Steering Committee for Public Chapter 1101 developed a road map to growth policy under public chapter 1101, which is included as Appendix 3. Appendix 4 provides a synopsis of the planning requirements contained in Public Chapter 1101 as such requirements are interpreted by the Implementation Steering Committee. To assist community leaders in understanding some of the more complex processes involved in the development of a growth plan, TACIR staff developed a flow chart depicting the alternate "paths" that a county may follow as it moves toward growth plan approval (see next page).

FLOW CHART OF GROWTH PLAN DEVELOPMENT

III. IMPLEMENTATION DEVELOPMENTS AND PROGRESS

A. IMPLEMENTATION STEERING COMMITTEE

In order to facilitate consistent statewide application of this Act and to maximize the deployment of limited technical assistance resources, the state-level entities that provide assistance to local governments have joined in a cooperative effort to formulate a unified approach to the implementation of the law. Such groups as the Tennessee Advisory Commission on Intergovernmental Relations (TACIR); the University of Tennessee's Institute for Public Service (IPS) including Municipal Technical Advisory Service (MTAS), County Technical Assistance Service (CTAS), and Center for Government Training (CGT); the Department of Economic and Community Development Local Planning Office; the Comptroller's Office; and the state's nine development districts have consolidated their efforts and resources in the deployment of technical assistance.

Furthermore, the agencies participating in this cooperative effort have relied heavily upon the guidance of the "Implementation Steering Committee," which was created to ensure that a proactive and cooperative approach is taken to implement this important act. The Implementation Steering Committee members include:

- **Tom Ballard, Associate Vice President for Public Service, IPS (Chair)**
- **J. Rodney Carmical, Executive Director, CTAS**
- **Sam Edwards, Planning Advisor**
- **Harry A. Green, Executive Director, TACIR**
- **John Morgan, State Comptroller**
- **Maynard Pate, Secretary/Treasurer, Tennessee Development District Association**
- **Robert E. Schettler, Training Administrator, Center for Government Training**
- **Robert P. Schwartz, Executive Director, MTAS**
- **Bill Terry, Planning Advisor**
- **Don Waller, Director, Local Planning Office**

The "Implementation Steering Committee" has become an integral part of the implementation of Public Chapter 1101. Within days of the passage of the Act, there was a recognition by key local government leaders, state agency staff, and policy stakeholders, that there was a need for coordination of technical assistance resources.[26] On the advise of Senator Robert Rochelle, the Senate sponsor of the

---

[26] Notable among the policy stakeholders supporting the creation of a working group to maximize deployment of technical assistance resources were the Tennessee County Commissioners Association, the Tennessee County Services Association, and the Tennessee Municipal League.

legislation that became Public Chapter 1101, the Implementation Steering Committee was created as an informal working group to help guide implementation of Public Chapter 1101.

The Steering Committee is an entity whose role is purely advisory, with no budget and no formal authority apart from the independent authority and responsibilities of the agencies represented on the committee. The activities and endeavors of the Steering Committee are self-determined, provided of course that the Steering Committee has no authority to set policy. Coordination of the activities of the Committee has been assumed by the University of Tennessee Institute for Public Service under the leadership of Tom Ballard, Associate Vice-President for Public Service.

As is the case with local government duties and responsibilities under Public Chapter 1101, the role of state technical assistance agencies is not heavily proscribed by Public Chapter 1101. As is also true of local governments, it has taken considerable initiative on the part of the state's technical assistance agencies to come together to cooperatively implement a complex and resource intensive act.

From the outset, the Steering Committee set as two of its primary goals the creation of a "single reference document" on Public Chapter 1101 and the development of a "train the trainers" conference to educate technical assistance personnel on Public Chapter 1101. It was thought that if the various technical assistance and advisory agencies, TACIR included, were to proceed independently with the publication of resource material and staff training on Public Chapter 1101, the result would be divergent and competing interpretations of the Act. This, in turn, would compound the already large task faced by Tennessee's local governments as they work to develop their growth plans.

For an entity with no budget and no authority, the Implementation Steering Committee has enjoyed remarkable success. Both of the initial goals have been accomplished, and a great deal more. In the judgement of TACIR staff, the tremendous cooperation and success of the Steering Committee has contributed immensely to the statewide Public Chapter 1101 implementation effort. What follows is a brief summary of the accomplishments of the Implementation Steering Committee.

Under the guidance of the Implementation Steering Committee, the state's technical assistance agencies have:

- **Convened a special multi-agency working group to arrive at a single interpretation of the provisions of Public Chapter 1101;**

- **Prepared and distributed 7,500 copies of a "single reference document" that reflects the joint interpretation of the Act;**

- **Organized and conducted a "train the trainers" conference in Nashville for state technical assistance personnel;**

- **Organized and conducted eight regional briefing sessions throughout the state as an introduction to Public Chapter 1101 for community leaders;**

- **Served as a "clearinghouse" for technical assistance agency responses to major concerns and issues identified by community leaders;**

- **Coordinated the preparation of population projections by the University of Tennessee Center for Business and Economic Research;**

- **Arranged for Development District funding for the provision of technical assistance to county Coordinating Committees; and**

- **Further engaged Development Districts in the dissemination of population projections.**

Through regular meetings, the Implementation Steering Committee is continuing its important role in guiding the deployment of state level technical assistance resources.

B. PROGRESS TOWARD IMPLEMENTATION

Public Chapter 1101 requires the creation of two entities in 93 of the 95 counties (Davidson and Moore, with their metropolitan forms of government, are excluded from most of the requirements of Public Chapter 1101). Effective September 1, 1998, in each of the 93 counties in question, there was created a Coordinating Committee to be convened for the purposes of developing or amending a growth plan for the county.

Public Chapter 1101 also requires the creation of a Joint Economic and Community Development Board that is to be a permanent board charged with fostering communication and cooperation relative to economic and community development.[27]

The role and nature of these two entities has been a source of some confusion among local government leaders. During a TACIR staff presentation to county officials

---

[27] **If a county has an existing entity whose purpose and membership is similar to that required by Section 15 of the Act, the county may petition the Local Government Planning Advisory Committee for a determination that the entity satisfies the requirements of the Act.**

during County Government Day in Nashville on February 1, 1999, several county officials identified the requirement for these two entities as a source of some concern.[28]

The following two tables provide a side by side comparison of the purpose and membership of these two entities.

Table 1.
Comparison of Purpose, Powers, and Funding of the Coordinating Committee and the Joint Economic and Community Development Board

CATEGORY	Coordinating Committee	Joint Economic and Community Development Board
PURPOSES	To develop county-wide growth plan	Foster communication among governmental entities, industry, and private citizens on economic and community development
POWERS	Limited to developing 20 year growth plan, holding hearings, and submitting plan to county and city legislative body	Economic and Community Development Planning
FUNDING	Not Applicable	Local governments fund according to formula in Act using federal decennial census or as adjusted by special census. The board may also accept donations, grants, and contracts from other sources.

[28] The results of an informal TACIR survey of county officials is attached as Appendix 6.

Table 2.
Comparison of Membership on the Coordinating Committee and the Joint Economic and Community Development Board

CATEGORY	Coordinating Committee	Joint Economic and Community Development Board
County Executive	Required	Required
Representatives of county government	Required	Required (see category above)
Mayor of each municipality in the county	Required	Required[29]
Representatives of city government	Required	Required (see category above)
Largest municipally-owned utility representative	Required	Not required
Largest non-municipally-owned utility representative	Required	Not required
Soil conservation district representative	Required	Not required
Representative of the largest LEA	Required	Not required
Representative of the largest Chamber of Commerce	Required	Not required
Private Citizens	Two members appointed by	Not specified[30]

[29] The mayor of each municipality is to be a member of the Joint Economic and Community Development Board, although in cases where there are "multiple" cities, "smaller" cities may have representation on a rotating basis.

	county executive and two members appointed by mayor of largest municipality (representing environmental, construction, and homeowner interests)	
Representatives of present industry and business	Two members appointed by county executive and two members appointed by mayor of largest municipality (representing environmental, construction, and homeowner interests)	Required[31]
Greenbelt property owner	Not specified	Required

1. Status of Coordinating Committees

TACIR, the Municipal Technical Advisory Service (MTAS), and the County Technical Assistance Service (CTAS) have coordinated their efforts to survey the various counties to ascertain the status of the Coordinating Committee process. In December 1998, TACIR staff sent a letter to all 93 affected counties inquiring as to the status of their progress and asking for input on any changes needed in the law.

The University of Tennessee Institute for Public Service had assigned staff to build an interactive database for posting data on the MTAS web site. TACIR staff and UT staff, after comparing total responses, have found that as of February 18, 1999, only ten Counties were not known to have created a Coordinating Committee. Therefore, 83 of the 93 Counties have established Coordinating Committees and are organizing to meet their responsibilities under Public Chapter 1101.

At the request of the Senate State and Local Government Committee, TACIR staff have sent notifications to counties that have not yet formed Coordinating

---

[30] This category has some crossover with other categories. For example, the representative of "homeowner interests" from the coordinating committee is likely to be as a private citizen and landowner.

[31] This category has some crossover with other categories. For example, the representative of "construction" from the Coordinating Committee might also qualify as a representative of present industry and business. The language in Section 15(c) is ambiguous. It states that this category "shall be" represented, but the category is not included in the "minimum" membership requirements of the same section.

Committees and offered to help arrange technical assistance as needed for the purpose of creating the required Coordinating Committee.

The ten counties that have not yet formed Coordinating Committees are all smaller counties, but are, nevertheless, a diverse group. Five of the counties are in East Tennessee, four are in Middle Tennessee, and one is in West Tennessee. The five counties range in size from approximately 5,000 residents to approximately 50,000. Four of the counties have populations under 10,000, four have populations over 25,000, and the remaining two counties fall in between.

The ten counties that were not known to have established a Coordinating Committee as of February 18, 1999, include the following:

- **Campbell**
- **Claiborne**
- **Clay**
- **Hancock**
- **Hardeman**
- **Overton**
- **Pickett**
- **Roane (see below)**
- **Sevier**
- **Van Buren**

Subsequent to the TACIR staff report to the Senate State and Local Government Committee on implementation progress, the Roane County Executive reported to TACIR staff that Roane County does have in place a Coordinating Committee. As each county reaches major milestones in the implementation of Public Chapter 1101, city and county officials are encouraged to communicate these developments, as Roane County and many others have done.

2. Status of Joint Economic and Community Development Boards

Far less progress has been made in the creation of the Joint Economic and Community Development Boards. This is not too surprising, as in each county there is a finite amount of resources that may be deployed on short notice. Appearances suggest that the vast majority of counties have focused their early efforts on the creation of the Coordinating Committees, which have accompanying deadlines for the development of growth plans.

While it appears that most counties have taken the planning imperative of the Coordinating Committee as the foremost concern, it must be noted that the long

range powers, duties, and responsibilities of the Joint Economic Boards also have great importance for the future of growth and preservation.

As of February 18, 1999, there are only seven counties known to have moved to establish Joint Economic and Community Development Boards. Carroll County established their Joint Economic Board, and has budgeted and programmed for a $100,000 budget. Decatur County and Shelby County are reviewing plans for creation and implementation of this board. Hamilton County has temporarily designated their county Coordinating Committee as their Joint Economic Board until a more permanent board can be created. Loudon County reports that they are reviewing the make-up and composition of their present industrial development board and comparing it with the requirements for this new Joint Economic Board.

The existing Wilson County Joint Economic and Community Development Board was considered by the authors of Public Chapter 1101 to be a model economic and community development board. At the January 27, 1999 meeting of the Local Government Planning Advisory Committee (LGPAC) existing entities in Wilson and Carroll Counties were considered for determinations that the entities fulfilled the requirements of the Joint Economic and Community Development Board as provided in Section 15 of Public Chapter 1101. The LGPAC concluded that the clear intent of Public Chapter 1101 was to require a representative who owns land qualifying for classification and valuation under *Tennessee Code Annotated* Title 67, Chapter 5, Part 10 (The Agricultural, Forestry, and Open Space Act, which is commonly referred to as "the Greenbelt Law"). The LGPAC approved Wilson County's Joint Board contingent upon the inclusion of a member who owns such land.

Carroll County's request was deferred pending more detail as to their entity's composition. Based on the experiences of Wilson and Carroll Counties, it may be advisable for any county seeking a Section 15 determination to carefully review the membership requirements of the Section as they compare to the membership of the existing entity. Specifically, counties should note that Public Chapter 1101 expressly calls for the county executive and mayors or city managers of the larger municipalities to be represented. It should also be noted that the law under which Industrial Development Boards are created expressly forbids officeholders and or city/county employees from serving.

C. IMPLEMENTATION DEVELOPMENTS

1. Opinions of the Attorney General

Like many other pieces of major legislation, Public Chapter 1101 has not been without controversy. Attorney General's opinions have been requested on four separate topics related to the chapter. Following is a summary of the four questions and the Attorney General's opinion on each. These summaries are provided as a general reference only. Readers are encouraged to refer to the original opinions for a more complete understanding of the Attorney General's analysis.

Attorney General Opinion No. 98-146

The question asked was whether or not Section 9(f)(3)(A) of Public Chapter 1101 is constitutional. Section 9(f)(3)(A) allows territories that voted in a certified referendum to incorporate under either 1996 Public Chapter 666 or 1997 Public Chapter 98 to hold another incorporation referendum. If the territory votes to incorporate, Section 9(f)(3)(B) provides that the new municipality shall have priority over any prior or pending annexation ordinance of an existing municipality that encroaches upon any territory of the new municipality. This section also requires the new municipality to levy a property tax in accordance with Section 13(c) of the Act.

In his opinion, the Attorney General referred to Section 9(f)(3)(A) of Public Chapter 1101 as the "Small Cities Section." The Attorney General opined that the Small Cities Section is constitutional for the following reasons.

- ***The caption is constitutionally sufficient.*** **The caption for Public Chapter 1101 reads "AN ACT To amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 13; Title 49; Title 67 and Title 68, relative to growth." This caption meets the requirements of Tenn. Const. Art. II, э 17, in that the Small Cities Section falls within the general subject expressed in the caption, and that it also falls within the restrictive phrase "relative to growth." It was for a failure to meet the requirements of Tenn. Const. Art. II, э 17, that the Tennessee Supreme Court ruled Public Chapter 98 unconstitutional.**

- ***Public Chapter 1101 is a general law as required by Tenn. Const. Art. XI, ' 9.*** **Article XI, Section 9, the Municipal Boundaries Clause, provides in relevant part that "The General Assembly shall by general law provide the exclusive methods by which municipalities may be created, merged, consolidated and dissolved and by which municipal boundaries may be altered."**

The Attorney General opined that a court would conclude that the Small Cities Section is constitutional because it is a general act within the meaning of the Municipal Boundaries Clause, and because there is a rational basis for the classification of the territories to which it applies. The Attorney General noted that each of the affected "territories relied upon a duly enacted act of the General Assembly and went to the trouble and expense of filing an incorporation petition and holding an incorporation election, the results of which were certified."

- ***Public Chapter 1101 is supported by a rational basis as required by Tenn. Const. Art. XI, ' 8.*** **Article XI, Section 8 provides in relevant part that "the legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunity, [immunities] or exemptions other than such as may be, by the same law extended to any member of the community, who may be able to bring himself with the provisions of the law."**

  In order to trigger the application of Tenn. Const. Article XI, Section 8, a statute must contravene some general law that has mandatory application statewide. The Attorney General opined that the Small Cities Section does contravene laws of mandatory statewide application, and thus must be subjected to a rational basis test to show that the Act does not affect a fundamental right or discriminate as to a suspect class. The Small Cities Section creates a class composed of territories that conducted an election under two previous acts of the General Assembly. As this class does not affect a fundamental right nor discriminate as to a suspect class, and as the good faith elections and incorporation efforts of the members of this classification provides a rational basis for the classification, the section meets the requirements of Article XI, Section 8.

The Attorney General also noted in his opinion that "because the right of adjoining municipalities to annex property is purely statutory, the General Assembly may provide that the new municipality, if it votes to incorporate, has priority over any annexation ordinance of an existing municipality that encroaches on the territory of the new municipality." The Attorney General also commented that the unconstitutionality of the two acts (Public Chapters 666 and 98) listed within the Small City Section does not affect the constitutionality of the section.

Attorney General Opinion No. 98-148

Under *Tennessee Code Annotated* ∋ 6-51-110, where two cities in the same county are seeking to annex the same property, the proceedings of the larger city take precedence over those of the smaller city. The question addressed in Attorney General Opinion No. 98-148 is whether Public Chapter 1101, particularly Section 12, repeals this provision where the smaller city is attempting to annex property by referendum under T.C.A. ∋∋ 6-51-104 and 6-51-105.

The Attorney General opined that while "under 1998 Tenn. Pub. Acts Ch. 1101 (the "Act"), a municipality may annex territory by referendum from the effective date of the Act until the Local Government Planning Advisory Committee approves the local growth plan for the county…it appears that during this period the priority provisions under Tenn. Code Ann. ∋ 6-51-110 will continue to apply to any annexation proceedings." In his opinion, the Attorney General also noted the following:

> ***After the Local Planning Advisory Committee has approved a local growth plan for a county, a city will only be able to annex by ordinance within its urban growth boundaries. In charter counties, once the county has filed a plan with the Local Planning Advisory Committee, the urban growth boundaries would be those established by annexation reserve agreements in effect as of January 1, 1998.***
>
> ***The power of a municipality to annex territory by referendum under the Act outside its urban growth boundaries is not clear. If the territory is within the urban growth boundaries of another city, a city could be barred from such annexation by referendum if the annexation would violate the terms of any annexation reserve agreements that form the county's local growth plan, or if the annexation violated the terms of any annexation agreements between a city and property owners. The extent to which any such agreement can be enforced against a city that is not a party to it can only be determined by a court of competent jurisdiction after reviewing the agreements and other applicable facts and circumstances. In any case, even if it is not barred by an annexation reserve agreement or other agreement, it is not clear that the statute intended to allow one municipality to annex by referendum territory within another municipality's urban growth boundaries. A court could conclude that, even if such annexation is allowed, it is subject to the priorities in Tenn. Code Ann. ' 6-51-110.***
>
> ***With regard to annexations of territory that are not within any city's urban growth boundaries, again, such proceedings could be barred if they violate any agreements between local governments or between a city and property***

owners. Further, we note that the General Assembly did not repeal the priority provisions in Tenn. Code Ann. ' 6-51-110. The larger city could therefore argue that it may also annex the same territory by referendum, and that its referendum proceedings must take precedence over the smaller city's proceedings.

Attorney General Opinion No. 98-149

This opinion responded to several questions, all related to Public Chapter 1101's requirement for each county to develop a local growth plan. This plan is to be developed through a Coordinating Committee established in each county. Section 5(a)(1) of the Act directs that the committee include the following:

> **One (1) member appointed by the governing board of the municipality owned utility system serving the largest number of customers in the county; and**
>
> **One (1) member appointed by the governing board of the utility system, not municipally owned, serving the largest number of customers in the county.**

Table 3 provides the specific questions and the Attorney General's opinion for each question.

Table 3
Attorney General Opinion No. 98-149:
Questions and Opinions

Question	Attorney General Opinion
1. Does the phrase "governing board of the municipality owned utility system serving the largest number of customers in the county" only refer to a system owned by a municipality located within the county, or to any municipally owned system that provides utility service in that county?	Within the context of the Act, the Attorney General thinks that the General Assembly intended the phrase "governing board … in the county" to refer to any municipally owned system that provides utility service in that county, whether or not the owning municipality is located within that county.

2. How should the "largest number of customers" be determined:	
a. By the persons named on the utility's billings;	**The General Assembly intended the number of customers served by a utility under these provisions to include all the persons named on the bills issued for services of that utility within the county.**
b. By the number of meters served by the utility;	**Same as above.**
c. By the total number of persons served by the utility system?	**Same as above.**
d. If the phrase refers to persons named on the account, are joint accounts treated as one customer?	**Based on the conclusion above, if two persons are named on a joint account, each person should be counted as a separate customer.**
e. If the phrase is based on the number of utility meters, are domestic wastewater customers, who have no separate wastewater meter, but are billed for wastewater services based on water consumption, to be counted more than once?	**Because this opinion concludes that the number of customers is based on the persons named on the bills, and not on the number of meters served, this question is moot.**
3. What is the definition of a "utility system, not municipally owned?" Does it include: **a. A telephone company?** **b. A cable television company?** **c. An electric cooperative?** **d. A private gas company? Or** **e. A company providing garbage removal services?**	**The General Assembly intended the term "utility system not municipally owned," to include privately owned companies included within the definition of "public utility" in Tenn. Code Ann. ∋ 65-4-101. Applying this definition, any privately owned company listed in Question 3 could be a "utility system, not municipally owned," under the Act if it serves the public under a privilege, franchise, license, or agreement granted by the State or any political subdivision of the State. An electrical cooperative operating under Tenn. Code Ann. ∋∋ 65-25-201, *et seq.*, would probably fall within this definition.**

Attorney General Opinion No. 98-239

This opinion addresses four questions concerning Public Chapter 1101. The questions are as follows:

1. **Under *Tennessee Code Annotated* ∋ 6-58-101, *et seq.*, local governments are required to develop a growth plan. Under T.C.A. ∋ 6-58-105, the affected county, an affected municipality, a resident of the county, or an owner of real property located within the county is entitled to judicial review of the plan. The petitioner has the burden of proving that the plan is invalid because it was adopted in an arbitrary, capricious, illegal, or other manner characterized by abuse of official discretion. Is it constitutional to place the burden of proof on the party challenging the plan?**

2. **Under *Tennessee Code Annotated* ∋ 6-58-111, a party challenging an annexation by a municipality within urban growth boundaries established by the plan has the burden of proving that the annexation is unreasonable, or that the health and welfare of the citizens of the area will not be materially retarded in the absence of the annexation. Is it constitutional to place the burden of proof on the person challenging the annexation?**

3. **Does a growth plan, by designating different areas as urban growth, planned growth, or rural areas, constitute an illegal "taking" of landowners' property?**

4. **Under *Tennessee Code Annotated* ∋ 6-58-110, certain grants are not available in counties and municipalities that do not have growth plans approved as required under the statute by July 1, 2001. Is withholding funds or grants under this statute constitutional?**

The Attorney General responded with the following opinions:

1. **The allocation of the burden of proof in actions seeking judicial review of a growth plan is constitutional. The Attorney General opined that "a court would conclude that the statutes governing adoption, implementation, and challenge of a county growth plan, including the provision allocating the burden of poof on judicial review of a growth plan, are matters regarding the creation and expansion of municipal corporations and are, therefore, within the broad constitutional authority vested in the General Assembly in such matters."**

2. **In annexation cases, both federal and Tennessee courts have held that, absent some showing of invidious discrimination, there is no equal protection or due process argument that can successfully be made when the statute is properly followed. Based upon these authorities, the Attorney General concluded that the statute placing the burden of proof upon the parties challenging an annexation within a city's urban growth boundaries is constitutional. The Attorney General noted that while this statute imposes a different burden of proof than that applicable in other annexation challenges, a court would conclude that it does not violate equal protection, in that it does not contravene any statute of mandatory general applicability and it is supported by a rational basis.**

3. **A growth plan, by designating different areas as urban growth, planned growth, or rural areas, does not constitute an illegal "taking" of landowners' property under the United States or Tennessee Constitutions. As a general matter, both federal and Tennessee courts have held that the placing of property within the boundaries of a city where it will be subject to city taxation is not a taking of property. The application of a zoning law to a particular property effects a taking of property if the ordinance does not "substantially advance legitimate state interests, … or denies an owner economically viable use of his land." As a form of zoning, a growth plan is very general, and thus the inclusion of property within a growth plan is not an unconstitutional taking of property.**

4. **The Attorney General is unaware of any constitutional provision violated by providing that agencies may not make any additional grants or loans under the listed programs in counties and municipalities that do not have growth plans approved as required under the statute by July 1, 2001. The question suggests that this statute would effect grants or loans already awarded before the effective date. However, the Attorney General noted that as a general matter, statutes are to be applied prospectively unless the Legislature indicates to the contrary. Therefore, *Tennessee Code Annotated* ∋ 6-58-110 would prevent any new grants or loans under the programs where growth plans have not been approved by the effective date, but would not cut off payments approved before that date. To the extent any of these funds are distributed by the State under federal law, officials administering the programs should consult with federal officials to ensure that the practice would not violate any controlling federal law.**

2. Incorporation Developments

Of the five original "tiny towns," all have held incorporation elections and have selected town officers. The towns of Helenwood and Threeway have survived initial court challenges where the constitutionality of PC 1101 has been upheld; court challenges of Hickory Withe, Walnut Grove, and Midtown are still pending.[32] The public services provisions of PC 1101 appeared to have affected the margin of the pro-incorporation vote in Walnut Grove and Three Way, but did not appear to significantly impact the vote in Hickory Withe. The turnout in the recent elections was high, as was the case in the prior incorporation votes.[33] Provided in the following table is the status of each of the five towns as of the writing of this report.

TABLE 4.
The Status of the Five "Tiny Towns"

TOWN	CO.	VOTE HELD	OFFICERS ELECTED	COURT CHALLENGE
Helenwood	Scott	Yes[34]	Yes[35]	Suit by Huntsville unsuccessful[36]
Hickory Withe	Fayette	Yes[37]	Yes[38]	Separate suits by Oakland and a "citizen's group" pending[39]
Midtown	Roane	Yes[40]	Yes (timing of election of officers questioned in suit challenging incorporation[41]	Chancery Court Judge Russell Simmons granted continuance in suit by City of Harriman on 3/1/1999[42]
Three Way	Madison	Yes[43]	Yes[44]	Suit by City of Humboldt unsuccessful[45]
Walnut Grove	Sumner	Yes[46]	Yes[47]	Suit by White House pending ruling by Chancellor concerning validity and effect of (1997) election certification.[48] PC 1101 Constitutionality upheld by Chancellor[49]

[32] Telephone interviews with UT MTAS staff 3/01/99 and 3/02/99.
[33] Ibid.
[34] "Legal Battle May Be Forthcoming Over Incorporation of Helenwood," Oneida TN *Independent Herald*, 8/13/1998.
[35] Telephone interview with UT MTAS staff, 3/02/1999.
[36] Jason Reynolds, "Midtown Suit Set For March 1," Harriman TN *Record*, 1/19/1999.
[37] Paula Wade, "Hickory Withe to Become a City This Time," *Commercial Appeal*, 10/28/1998.
[38] Maggie Powers, "Hickory Withe Selects Mayor, Allen and Barber Win Alderman Race," *Fayette County News*, 12/29/1998.
[39] Maggie Powers, "Oakland Files Suit Against New Hickory Withe Incorporation," *Fayette County News*, 12/30/1998.
[40] Jason Reynolds, "For Second Time Midtown Votes to Incorporate," Harriman *Record*, 8/11/1998.
[41] Jason Reynolds, "Midtown Lawsuit Set for March 1," Harriman TN *Record*, 1/19/1999.
[42] Telephone interview with Jason Reynolds of *Roane Newspapers*, Kingston, TN, 3/02/1999.
[43] Chandra Hayslett, "Three Way Vote to Incorporate is Legal," *Jackson Sun*, 11/03/1999.
[44] Telephone interview with UT MTAS staff, 3/02/1999.
[45] Ibid.

3. Annexation Developments

Since the passage of Public Chapter 1101, municipalities have continued to annex, although the law has brought to the fore issues regarding service provision, cross-county border annexation, and counties' roles in assisting residents in challenging annexation. Even where there appears to be no challenge to annexation, it appears that annexation is being initiated with the requirements of PC 1101 in mind.

For example, the city of Franklin, in September 1998, considered annexing 1,225 acres just outside the city limits. The city attorney commented that the proposed annexations would not violate the land-use planning process required by PC 1101. He was quoted as saying, "No one would dispute that these are our natural growth boundaries," and that there would be plenty of time for residents or the county to object to the annexations.[50]

Another example of the impact of PC 1101 on planning decisions was seen in Rockwood, where that city's attorney recently commented that his city might have to change its approach to annexation. In the past, Rockwood's approach has included annexation along roadways where there were no property owners to protest the annexation.[51]

Yet another example was seen in Dyersburg, where a state planner recently told the city commission that now that PC 1101 has gone into effect, it is time to proceed with annexation plans. He cited the changes made by the law in regards to challenging annexation and the distribution of revenue collected from newly annexed areas.[52]

The service provision requirements of PC 1101 were the reason Manchester aldermen repealed two recent ordinances annexing outlying areas. The aldermen were concerned that the city might not meet those requirements. A Manchester city official commented that PC 1101 is quite extensive and ensures that cities provide annexed areas with services within a reasonable period of time. City officials made

---

[46] Corwin Thomas, "Walnut Grove 'Tiny Town' Vote Favors Incorporating By Tiny Margin," Nashville *Tennessean*, 12/02/1998.
[47] Albert Dittes, "Walnut Grove Elects First Mayor," Nashville *Tennessean, Friday 1/29/99.*
[48] Telephone interview with Cameron Collins, News Editor, *Gallatin News*-Examiner, 3/01/1999.
[49] Jason Reynolds, "Midtown Suit Set For March 1," Harriman TN *Record (Roane Newspapers)*, 1/19/1999, and telephone interview with UT MTAS staff 3/01/1999.
[50] Carly Irion, "City Eyes Annexation of 1,255 More Acres," Franklin (TN) *Review-Appeal*, September 20, 1998.
[51] Michelle Jerla, "Council Sees Conflict of Interest in Annexation Suit Against Rockwood," Kingston (TN) *Roane County News*, July 22, 1998.
[52] Terra Temple, "Planning Commission OKs Annexation East: City Limits would be Extended along East Court through U.S. 412 Interchange," Dyersburg (TN) *State Gazette*, October 9, 1998.

it clear that they plan to consider the de-annexed areas in their future growth plan. Another city official was quoted as saying, "This is simply something we need to do to make sure that everything is legal, and we'll probably annex later."[53]

Opponents of annexation have raised the issue of service provision as well. An opponent of an annexation proposal initiated by Lakeland expressed the opinion in August that Lakeland was in a hurry to complete the annexation before PC 1101 required them to be more accountable for service provision. A Lakeland official countered that the citizens of the proposed annexation parcel would receive the same services as the rest of the city of Lakeland.[54]

It should be noted that the requirement to provide plans of services for proposed annexations had already gone into effect at the time of these comments. PC 1101 required that plans of services be prepared no later than July 20, 1998 for all annexations not final on November 25, 1997. Prior to approval of a growth plan, PC 1101 gives the county the right to challenge plans of services adopted after May 19, 1998. Once a growth plan is approved, the county must be petitioned by a majority of property owners within the proposed annexation parcel before it can challenge the plan of service.[55]

The question of service provision is also behind a lawsuit filed by opponents of an annexation by Henderson. The plaintiffs have asked the Chancery Court to restrain the city from implementing its annexation of the Magic Valley area of Chester County. They claim that the annexation violates state law in that the sole purpose of the annexation is to increase revenues, while its service provision plan fails to satisfy the requirements of the law. The plaintiffs argue that Henderson is not offering any new services in exchange for annexation. The city's response is that residents and industries in the annexation area have benefited from the city's services for years at the expense of city taxpayers.[56]

Another annexation issue related to PC 1101 that has arisen since the passage of the law regards annexation across county borders. The city of Monteagle approved the annexation of property in the Deep Woods area, the majority of which is located in Franklin County, on November 1, 1998.[57] A city may only annex on its own

---

[53] John Hatchett, "Manchester Releases Two Towns from Annexation for Time Being," Nashville *Tennessean*, October 1, 1998.

[54] Eileen Loh-Harrist, "Resident Fights City's Annexation Move: List of Services to be Provided is Requested," Memphis *Commercial Appeal*, August 4, 1998.

[55] *Growth Policy, Annexation, and Incorporation Under Public Chapter 1101 of 1998: A Guide for Community Leaders*, a joint publication of The University of Tennessee Institute for Public Service and the Tennessee Advisory Commission on Intergovernmental Relations, September 1998, pp. 21-22.

[56] "City Sued Over Annexation," Oneida (TN) *Independent-Herald*, October 15, 1998.

[57] Jan-Michael Tavalin, "Monteagle Finalizes Annexation; Next Step Up to Franklin County," Winchester (TN) *Herald-Chronicle*, November 2, 1998.

initiative territory within the county in which its city hall is located, unless: seven percent or more of the city's population was located in the other county on November 25, 1997; the county legislative body in the other county approves the annexation; or the city provided sewer service to 100 or more customers in the proposed annexation area on January 1, 1998.[58] These restrictions do not apply to annexations by referendum.

As Monteagle's city hall is located within Grundy County, it would appear that the city would require Franklin County's approval for the annexation to proceed. However, a complicating issue is that the property owner has requested the annexation. Additionally, prior to development of a growth plan, PC 1101 requires county concurrence for annexation if the territory proposed to be annexed does not have any residents.[59] Since the land is uninhabited, the issue might require a court opinion regarding whether the single property owner could constitute a referendum for annexation. The Franklin County Commission voted unanimously on November 24, 1998 to disapprove the annexation.[60]

An annexation dispute in Dickson County has raised the issue of county representation in annexation disputes. County residents, upset with the city of Dickson's plans to annex their land, requested the county to challenge the annexation on their behalf. According to PC 1101, in the period following passage of the law, but prior to the development of the countywide growth plan, a county may file suit contesting a city annexation if it receives a petitions signed by a majority of the property owners in the territory being annexed. The petition must be filed within 60 days, and the suit within 90 days of the final passage of the annexation ordinance.

The challenge in Dickson County was on track to meet this time requirement, with the property owners petitioning the county for its assistance in the month following the annexation ordinance, and the county commission approving a resolution expressing their disapproval of the annexation. However, after weeks of consideration, the county commission narrowly voted against challenging the annexation in court.[61] The residents, if they desire, can still file a court challenge to the annexation by themselves. Select Dickson County Commissioners were of the opinion that the people would have a better chance fighting the annexation by filing themselves, as they would have a trial by jury. The commissioners believe that a

---

[58] ***Section 9(e), 1998 Public Chapter 1101.***

[59] ***Section 9(d), 1998 Public Chapter 1101.***

[60] **J. Daniel Cloud, "Legislative Committee Rejects Annexation Bid by Monteagle," Winchester (TN) *Herald-Chronicle*, November 26, 1998.**

[61] **Deborah Highland, "Growth Plans Face Hard Sell in Annexation-Torn County," Nashville *Tennessean*, November 29, 1998.**

jury may be more sympathetic to the residents than a judge would be to the county.[62]

The dispute between city and county officials in Dickson County has left local officials there wondering if the city and county will be able to agree on a growth plan. A county official stated that "The cities are not going to like it very much, us putting boundaries on them." However, the county official remains optimistic that the county's Coordinating Committee will agree on a plan by the deadline, because its "really a great thing so that we won't have urban sprawl."[63]

The aforementioned annexations are but a sample of those occurring in Tennessee. Data are not yet available to determine if Public Chapter 1101 has caused an increase or decrease in the frequency, size, or composition of annexation actions.[64] Nor is it yet possible to determine if the method of annexation has begun to shift further toward, or away from, annexation by ordinance.

At this early stage, small annexations appear to be continuing with relatively little controversy, and often at the request of property owners. The larger or more controversial annexations, though not put to an end by Public Chapter 1101, appear to be occurring in the full light of day, with much public and media scrutiny. In subsequent reports, TACIR staff will report more detailed information on the effect of Public Chapter 1101 on municipal annexation.

4. Developments in Consolidation– The Move to "Metro"

Public Chapter 1101 has made it easier for citizens interested in consolidating municipal and county governments to initiate formal consideration of the topic. Whereas previous law required the county and principal city to call for the creation of a consolidation commission, the first formal step towards consolidation, PC 1101 allows the creation of a commission upon petition of ten percent of the county's voters. Since the enactment of PC 1101, interest in municipal-county consolidation has come to the fore in at least seven counties, particularly in Franklin and Sullivan Counties.

In Franklin County, on October 19, 1998, the Franklin County Commission passed a resolution to create a 15-member metropolitan charter commission and a second resolution appropriating $25,000 to fund the charter commission. The county commission was acting in response to a petition by county citizens requesting the

---

[62] Deborah Highland, "Dickson County Residents Using New Law to Fight City," Nashville *Tennessean*, October 26, 1998

[63] Highland, November 29, 1998.

[64] See Appendix 2 for historical data on Tennessee annexations.

formation of the charter commission.[65] The drive to request the charter commission has been supported by a volunteer organization called the Franklin County 2000 Association.[66]

The city council of Winchester, the largest city in Franklin County, has already passed resolutions making its opposition to consolidation public record. An elected official from Winchester stated that "Our city board is unanimous in opposing metro because after studying the issues, we can come up with nothing that is a benefit to Winchester citizens to 'go metro'." The official further stated that he believed that the biggest arguments for adopting a metro government stemmed from annexation problems, and that the new state annexation law should negate those arguments. In a later action, the Cowan City Council passed a resolution expressing its opposition to a Metropolitan Government for Franklin County, with a Cowan councilman saying that there were too many unanswered questions regarding services.[67]

The Winchester official referred to the PC 1101 requirement that municipal and county governments work together to develop long-term growth plans. He stated that the law "will force cities and counties to work together on annexation whether they want to or not," and that "in a certain degree should take care of metro itself." Despite its objections to the proposal, the city of Winchester has already selected its representatives for the metropolitan charter commission[68]

A member of the Franklin County 2000 Association disagreed with the Winchester official. The Association member stated that a metro government would have numerous benefits, including the elimination of service duplication, the stemming of the erosion of the county's tax base, and the creation of a united and cooperative government.[69] The Association member also commented that by forming a metropolitan government, Franklin County could prevent municipalities from outside the county from annexing portions of the county. He went on to state that by forming a metropolitan government, Franklin County could even nullify annexations by Monteagle into Franklin County, providing that Monteagle does not have its services in place by the time the metropolitan government takes effect.[70]

---

[65] Donna Baskin, "Franklin County Takes More Steps Toward Metro System," Tullahoma (TN) *News*, October 25, 1998.
[66] "Franklin County 2000: New Laws Make Metro Petition Easier for County Residents," Winchester (TN) *Herald-Chronicle*, July 9, 1998.
[67] Donna Baskin, "Cowan Council Votes to Oppose Metropolitan Form of Government," Winchester (TN) *Herald-Chronicle*, January 21, 1999.
[68] Baskin.
[69] Baskin.
[70] "Metro Vote Would Stop Annexation," Winchester (TN) *Herald-Chronicle*, December 7, 1998.

Once the county charter has been drafted, voters in both the non-municipal portions of the county and voters in the county's largest city vote for or against the charter in a referendum. Even if the charter is approved, the other municipalities located in the county can decide not to join the metropolitan government.

Recently, there have been discussions regarding consolidated government in Sullivan County. In September, a county commissioner introduced a resolution before the county commission that would ask the General Assembly to pass a private act allowing Sullivan County to form a consolidated government charter commission. There has been considerable resistance to consolidation from various municipal officials in Sullivan County.

A Bristol councilman believes that the timing for the proposal is bad, and that county officials should instead concentrate on the growth plan required by PC 1101. A city official from Kingsport commented that a better path than the creation of a consolidation commission would be for municipal and county officials to "just talk about some kind of ways we could work together." If a consolidation committee is created, it would still take a two-thirds majority vote of both the Sullivan County and Kingsport commissions to approve any resulting consolidation charter.[71]

Additional counties in which there has been some interest in consolidation include Carter, Henry, Montgomery, Williamson, and Wilson. A Carter County official referred to Public Chapter 1101 as a major reason for considering a consolidated government.[72] In response to questions about the consolidation of governments and their services, The Carter County official said that "I would want the system to be responsive to the people."[73]

A Henry County official said of his county's examination of the metropolitan form of government, "I think any county would be foolish not to at least look into [metro]."[74] Henry County's Metro Charter Commission is slated to make recommendations in September 1999. Montgomery County, which had attempted to adopt a metro form of government on two prior occasions, and Williamson and Wilson Counties, are also examining the metropolitan form of government.[75]

---

[71] Rick Wagner, "Government Merger Proposal Sparks Disagreement in Sullivan," Bristol (TN) *Herald Courier*, September 20, 1998.
[72] Gerry Richardson, "County May Reexamine Topic of Metropolitan Government," Elizabethton (TN) *Star*, January 17, 1999.
[73] Ibid.
[74] Tanya N. Ballard, "New Growth Law Boosts Interest in Metro System," Nashville (TN) *Tennessean*, February 10, 1999.
[75] Ibid.

5. Population Projections

Section 7 of the Act provides that before a city proposes Urban Growth Boundaries and before a county proposes Planned Growth Areas, population projections must be prepared in conjunction with the University of Tennessee. The Act did not specify the manner in which such population projections must be prepared.

When the Implementation Steering Committee considered the population projection provisions of the Act, two concerns arose. First, neither local governments nor the University of Tennessee had been provided the resources to cover the costs of preparing population projections. Second, if each local government had to independently arrange for the preparation of population projections by the University of Tennessee, the process of growth plan development would be significantly impeded. With the considerable new responsibilities brought about by Public Chapter 1101, Tennessee's 400+ cities and counties could not be expected to negotiate individually for the preparation of population projections. Perhaps more importantly, if the University of Tennessee were to attempt to negotiate with more than 400 local governments, the time and cost of making such arrangements would far exceed the time and cost required to actually prepare the projections.

Further, the preparation of individualized population projections, potentially by different units within the University of Tennessee, would present a problem with data comparability. If different methodologies were employed for different cities, great difficulties would be encountered in any attempt to synthesize the projections into a single portrayal of an entire county or region.

For these reasons, the Implementation Steering Committee embarked on an effort to help arrange for the funding and preparation of population projections for each city and county in the state using a single methodology. With no money or authority, the Implementation Steering Committee could only serve an advisory role with respect to the arrangements for population projections. After examining several alternatives, the Implementation Steering Committee helped secure state resources by working with the State Department of Finance and Administration and the State Comptroller's Office. The monies secured for this purpose were drawn from the "sums sufficient" appropriation included in the FY 1999 budget for the implementation of Public Chapter 1101.

The population projections were prepared by the University of Tennessee Center for Business and Economic Research (CBER) and distributed to cities and counties through Tennessee's nine Development Districts. This distribution system for the projections was developed upon the advise of the Implementation Steering Committee. The Implementation Steering Committee recommended a distribution system in response to concerns that CBER would not be prepared to distribute to,

and receive feedback from, more than 400 cities and counties without some intermediary.

In developing a distribution system, there were two competing but equally legitimate factors that had to be balanced. First, the deadlines associated with Public Chapter 1101 required that the projections be prepared with the greatest urgency. Second, the Implementation Steering Committee and CBER were in agreement that local governments should be given some period of time to comment on the projections before finalization. Additionally, it was initially thought that some time ought to be afforded to local governments so that unique circumstances not accounted for in the population projection model could be communicated to CBER.

Striking a balance between timeliness and local input required a trade-off. However, some of the concerns about local input were mitigated by the fact that the act requires that population projections be prepared "in conjunction with the University of Tennessee." The openness of this language appears to allow room for the exercise of local prerogative. No general population projection model can adequately account for each and every unique circumstance, such as industrial recruitment efforts, transportation infrastructure changes, or new housing developments, that may substantially alter population trends.

In light of the language of the Act, all appearances suggest that the University of Tennessee population projections are a good starting point, and for many local governments, a good ending point. However, local exigencies may require that the projections be adapted to unique local circumstances in some cases. In such cases, it is advisable that the special circumstances be well documented by city and county governments, as the unanimity of the Coordinating Committee may be eroded if it were to receive radically different or unsupported projections from the county and each city.

The following table depicts the population projection distribution and feedback system that was developed as a balance between the need for timely preparation of projections and the need for a reasonable period of time for local governments to respond. The schedule for distribution, response, and finalization of projections was not intended to allow for the consideration of every local circumstance impacting the validity of the projections. Rather, the response schedule was intended to allow local governments sufficient time to point out obvious errors, whether such errors resulted from data entry, calculations, or other factors. Highly localized factors that mitigate the validity of the projections are best dealt with through the coordinating committee process, rather than through changes in the general model employed across the state.

Table 5.
Population Projection Distribution and Feedback Process

Target Date	Action
January 20	Center for Business and Economic Research delivers projections to UT's Institute for Public Service
January 21	IPS delivers projections to Implementation Steering Committee and Tennessee Development District Association representative
January 22	TDDA distributes projections to each Development District
January 25	Development Districts begin distributing individual forms to each city and county.
January 26 to February 28	Development Districts collect comments on projections from cities and counties and distribute such comments to the TDDA, which in turn distributes comments to CBER and the Implementation Steering Committee.
January 26 to February 28	CBER receives responses from cities and counties, evaluates new input, and modifies projections if appropriate.
March 1	CBER delivers final projections to IPS
March 2	IPS delivers final projections to Implementation Steering Committee and Tennessee Development District Association representative
March 3	TDDA distributes final projections to each Development District
March 4	Development Districts begin distributing final projections to cities and counties.

To date, the process has flowed quite neatly according to the proposed schedule. However, there has been more controversy surrounding the initial projections than many had anticipated. In some instances the issues and concerns about the projections have been reported by local news media, though the level of reporting about the projections considerably understates the level of interest by city and county officials. Local governments have fully availed themselves of the opportunity to comment on the projections through their local Development District.

The majority of those who disagree with the projections feel that municipal population growth is understated under the initial methodology. One municipal official, for example, indicated that current population levels and average rate of new housing starts leads city officials to 20-year projections that are 8,000-10,000

higher than CBER projections.[76] Officials from some municipalities cite recent successes in the recruitment of new industry or the expansion of existing industry and point out the population growth implications of such successes.[77] Several municipalities cited changes in transportation infrastructure that will accelerate population growth beyond CBER's projections.[78] Examples of transportation projects with population relevance include the widening of highways and new interstate interchanges.

According to a few municipal officials, the population projected by CBER for the year 2020 is already met or exceeded in their city, though U.S. Census Bureau figures may not reflect the current municipal population.[79] Some cities and counties refer to special censuses that indicate that the baseline figures used in the projections are too low.[80]

In a few cases, the entire methodology employed by CBER was called into question, including such issues as the validity of Census data that was a component of the model.[81] One of the most commonly voiced concerns relates to the role in the projections of the Urban Growth Boundaries, Planned Growth Areas, and Rural Areas to be established in each county's growth plan. A frequently cited concern is the extent to which the imposition of these boundaries will alter patterns of population change.[82]

Some local government officials responded that the projections were either accurate or within a reasonable degree of precision.[83] In other cases, responses indicated that the projections were too high for some local governments and too low for others.[84]

At the time of the writing of this report, CBER was engaged in a review of its methodology in light of the comments received from local governments. The finer points of CBER's methodology have not been finalized to date. CBER staff

---

[76] See for example Germantown response to CBER projections, 2-16-99.
[77] See for example Union City response to CBER projections, 2-8-99.
[78] See for example South Fulton response to CBER projections, 2-8-99; Huntingdon response to CBER projections, 2-9-99.
[79] See for example Somerville response to CBER projections, 2-16-99; Troy response to CBER projections, 2-8-99.
[80] See for example Tipton County response to CBER projections, 2-6-99; Munford response to CBER projections, 2-10-99; Lebanon response to CBER projections, 2-6-99; Murfreesboro response to CBER projections, 2-2-99; Clay County response to CBER projections, 2-1-99.
[81] See for example Bristol response to CBER projections, 2-5-99; East Tennessee Development District response to CBER projections, 2-4-99; Roane County response to CBER projections, 2-1-99.
[82] See for example Elizabethton response to CBER projections, 2-5-99.
[83] See for example Paris response to CBER projections, 2-8-99; Williamson County response to CBER projections, 2-5-99.
[84] See for example Upper Cumberland Development District response to CBER projections, 2-5-99.

indicated to TACIR staff that their review pertains to the internal relationships of model components, but does not fundamentally change the methodology. Attached as Appendix 5 is the CBER methodological statement for its population projections. The Appendix reflects the methodology for the preparation of the initial population projections.

D. POTENTIAL IMPLEMENTATION ISSUES

During the early stages of the implementation of Public Chapter 1101, the state's technical assistance agencies identified a broad array of concerns and issues with respect the implementation of Public Chapter 1101. Some of these concerns and issues were identified by the Steering Committee during its deliberations, while others have been communicated to the Committee by local government leaders. What follows is a summary of these issues.

1. Resource Issues

From an early stage the Implementation Steering Committee recognized that there were two notable resource gaps in Public Chapter 1101. The Appropriations Act for FY 1999 appropriated a "sum sufficient" for the implementation of Public Chapter 1101. It is from this appropriation that the Implementation Steering Committee helped to secure resources for unmet needs. After piecing together a mosaic of all impacted agencies and entities, the Implementation Steering Committee determined that most needs were already met by existing resources.

Many cities and counties have, either in-house or through planning commissions, access to planning expertise. Additionally, the Department of Economic and Community Development's Local Planning Office contracts with many cities and counties to provide planning assistance. For those cities and counties without in-house planning staff or a Local Planning Office contract, the County Technical Assistance Service and the Municipal Technical Advisory Service are providing technical support. From these combined sources, resource needs were deemed to be largely met from existing sources.

The first identified unmet need was for the preparation of population projections by the University of Tennessee. The Implementation Steering Committee worked closely with the State Department of Finance and Administration and the Comptroller's Office to secure funding for the preparation of population projections by the University of Tennessee Center for Business and Economic Research.

The second unmet need was for technical assistance to the county Coordinating Committees. In some larger counties, the Coordinating Committees are receiving staff support from municipal and regional planning commission staff. However, in

many counties, there is no existing source for technical assistance to the Coordinating Committees, which operate somewhat independently of their respective county and municipal governments.

The Implementation Steering Committee again worked with the Department of Finance and Administration and the Comptroller's Office to identify and finance a mechanism for the provision of such assistance to Coordinating Committees. The state's nine development districts were appropriated resources for the provision of technical assistance via contracts with the Tennessee Advisory Commission on Intergovernmental Relations.

TACIR staff will continue to monitor the deployment of these resources to determine the adequacy of funds and quality and quantity of assistance provided.

2. Technical Issues Identified by the Implementation Steering Committee

The Implementation Steering Committee also identified or was informed of other issues regarding the implementation of the Act. These issues fell more or less precisely into one of four categories:

- **those issues that need to be resolved locally;**
- **those issues for which there is an easy answer;**
- **those issues that rise to the level of policy matters; and**
- **those issues that relate to technical aspects of the Act.**

The majority of concerns and issues fell into the first two categories. Where it was possible for senior technical assistance staff to provide answers regarding the intricacies of the Act, these answers were provided directly to the local officials seeking clarification. Given that Public Chapter 1101 is a "local prerogative act" with little structure, many of the operational details of growth plan development are matters to be determined locally. Technical assistance personnel apprised local officials of this need for "locally determined answers" when appropriate.

A few issues that came before the Implementation Steering Committee were deemed to be out of the reasonable scope of interest of the Committee. For example, one issue communicated to the Committee concerned reasonableness of the corridor annexation provisions of the Act. While such concerns are in every way legitimate, they rise to the level of state policy concerns that are more appropriately addressed by the requesting person or entity's representatives in the General Assembly.

When the Steering Committee received questions concerning whether some provision should have been included in the Act, individual members of the Steering Committee communicated the concern to appropriate legislative source, but took

great pains to avoid advocating for one position over another. In short, it would be most fair to characterize the role of the Steering Committee as "playing the hand that has been dealt" rather than advocating for a new game entirely.

Nevertheless, the Implementation Steering Committee did consider it appropriate to examine technical issues with the Act. On matters where the wording or general construction of the Act appeared to hold the potential to diverge from legislative intent or to produce an outcome not in keeping with legislative intent, the Implementation Steering Committee deliberated on the issue.

To date, the Implementation Steering Committee has identified four issues that were mutually agreeable as holding the potential to cause implementation difficulties. There was not unanimity on the resolution of the issues. Some members of the Steering Committee expressed a sentiment that the issues should be addressed by the legislature, while other members felt that none were so egregious as to negatively impact the early stages of implementation.

What follows is a summary of these four technical issues and the discussion surrounding each.

Technical Issue No. 1. Utility representation on Coordinating Committee.

Technical Issue No. 2. Extraterritorial planning and zoning.

Technical Issue No. 3. County concurrence for annexation of area without residents.

Technical Issue No. 4. Effective date for Joint Economic and Community Development Board and state grant implications.

Technical Issue No. 1— Utility representation on Coordinating Committee

The language of Sections 5(a)(1)(C) and (D) of the Act has been a source of considerable confusion. These sections pertain to membership on Coordinating Committees by providing for a municipally owned utility system representative and a non-municipally owned utility system representative. There are two problems in these sections. First, the term "utility system" was not defined. Second, the terms "municipally owned" and "not municipally owned" were not defined.

The Implementation Steering Committee has been advised that the legislature intended "utility system" to refer to utilities engaged in the provision of water and

sewer. Apparently it was not intended to refer to other types of "utilities," such as telephone, natural gas, cable television, or the like.

The terms "municipally owned" and "not municipally owned" were intended to mean city/town owned utilities and utilities not owned by a city/town. In various sections of the Tennessee Code, entities other than cities/towns are considered to be municipalities, at least for certain purposes. Thus, some have argued that a utility district, for example, might be considered a municipally owned utility.

While there may be a need for these issues to be resolved, the Implementation Steering Committee agreed that if considering any proposed technical correction, the General Assembly should also consider the ratification of any Coordinating Committee created before a certain date for the initial development of the growth plan.

Technical Issue No. 2— Extraterritorial planning and zoning.

Several provisions relating to extraterritorial planning and zoning are perhaps the most frequently cited sources of confusion. Awkward wording in Section 7(d) of the Act can be interpreted to revoke the extraterritorial planning authority exercised by a municipal planning commission designated as a regional planning commission in counties without zoning. In passing an Act rooted to some degree in the realm of planning, the legislature most likely did not intend to revoke extraterritorial planning authority that has been in place for years.

Sections 25 and 26 of the Act contain language specifying that after the approval of a growth plan, extraterritorial planning regions cannot extend beyond a municipality's Urban Growth Boundary. Under prior law, such planning regions could not exceed a distance of five miles from a city's corporate limits. The Act was not perfectly clear regarding the mechanism for converting from a maximum limit of five miles to a maximum limit of the Urban Growth Boundary. In some cases, the existing planning region will be larger than the Urban Growth Boundary. In other cases, the Urban Growth Boundary may be larger than the planning region approved by Local Government Planning Advisory Committee (LGPAC) under prior law.

There is no mechanism in the Act to provide for the adjustment of such boundaries. Nor is there language requiring that revised planning regions be submitted for approval to the LGPAC. Because of these omissions, several questions emerge, as follows.

1. **Should pre-existing extraterritorial planning authority be revoked in counties without county zoning?**

2. **Should the pre-existing planning regions be required to seek re-approval by LGPAC with a maximum allowable territory set as the Urban Growth Boundary?**
3. **Should the pre-existing planning regions be automatically adjusted so that each has the same boundaries as its city's Urban Growth Boundary?**
4. **Should <u>all</u> cities and towns that have a planning commission and a UGB extending beyond corporate limits, regardless of whether or not the city or town had extraterritorial planning authority under prior law, be automatically granted a planning region covering all territory within its urban growth boundary?**

Technical Issue No. 3— County concurrence for annexation of area without residents.

Section 9(d) of the Act provides that a city may annex beyond an urban growth boundary either by referendum or, if the territory contains no residents, the city may annex with the concurrence of the county pursuant to Section 9(a) of the Act. Section 9(a) contains no provisions for county concurrence, therefore, the last sentence of 9(d) carries no meaning. The Implementation Steering Committee was advised that this provision had been intended to provide relief for certain special case annexations beyond an Urban Growth Boundary. Apparently, the legislature intended to allow a city to annex property beyond its UGB containing no residents if the owner of the property requested to be annexed, and the county legislative body supported the annexation.

Technical Issue No. 4— Effective date for Joint Economic and Community Development Board and state grant implications.

Section 15 of the Act does not provide an effective date for the creation of the Joint Economic and Community Development Board (JECDB) within each county. The wording of the Act is such that the effective date of the Act could be construed to be the date upon which a JECDB must be created. The complexity of the Act and the many requirements imposed upon each county has slowed the creation of the JECDBs. Further, the wording of the Act is ambiguous regarding the grant-related sanctions to be imposed in the event a JECDB is not created.

IV. CONCLUSIONS

Tremendous progress has been made in the implementation of Public Chapter 1101. The time frame for the accomplishment of the many new responsibilities contained in this Act requires a concerted effort by Tennessee's cities, counties, and other local governments. Indeed, it may be the rigorous schedule of activities that has brought so many of Tennessee's community leaders together to make headway in the development of county area growth plans.

Any act of the scope and importance of Public Chapter 1101 inevitably encounters stumbling blocks in the implementation process. To date, several technical issues have been identified that hold the potential to complicate implementation of the Act. The ample opportunity for the exercise of local prerogative is being used to the fullest as community leaders move forward in developing a new vision for local growth policy throughout Tennessee. The intentional lack of structure in the Act affords local governments extensive opportunities to overcome any barriers, be they technical issues in the Act, unique local circumstances that complicate growth, or long-standing differences of opinion.

More than simply allowing for local creativity in the development of a new growth policy, the Act virtually demands such creativity in most growth counties. As further progress is made in the implementation of the Act, the full potential of the Act will begin to be realized. In counties that have experienced significant growth in recent decades, Public Chapter 1101 holds promise to put to rest much of the contentiousness that has surrounded growth issues. In non-growth counties, the Act holds significant potential by offering new tools to shape economic and community development, as well as providing means by which Tennessee's rural areas may be preserved for the benefit of residents.

This initial study by the staff of the Tennessee Advisory Commission on Intergovernmental Relations has chronicled the early stages of the implementation of Public Chapter 1101. As the implementation process gathers momentum, TACIR staff will continue to monitor and report on developments. In particular, TACIR staff intend to report on both the successes and failures in the implementation of the Act. To the extent that "winning" models are identified, those counties experiencing difficulties will have a set of positive options from which to draw. Any difficulties encountered will also be documented to the fullest extent possible so that pitfalls may be avoided by others.

APPENDICES

APPENDIX 1: Ad Hoc Study Committee on Annexation– Presentations and Testimony.....59

APPENDIX 2: Tennessee Annexations, 1980-1996.....63

APPENDIX 3: Road Map to Growth Policy Under Public Chapter 1101 67

APPENDIX 4: Recommended Minimum Requirements to Comply with Section 7 of the Act.....73

APPENDIX 5: Population Projection Methodology 77

APPENDIX 6: County Government Day Survey Results.....81

APPENDIX 1.
AD HOC STUDY COMMITTEE ON ANNEXATION– PRESENTATIONS AND TESTIMONY

October 13-14, 1997

October 13th presenters

- **Nathan Ridley, Office of Legal Services**
  Constitutional and Statutory Review

- **Dr. Joseph Whorton, Senior Fellow of the Institute of Community and Area Development, University of Georgia**
  Local Government Reform in Georgia

- **Ogden Stokes**
  Historical Overview of Annexation and Incorporation Issues

- **Dr. Harry A. Green, Executive Director, TACIR**
  Urbanization and Urban Policy in Tennessee

October 14th presenters

- **Mike Cole, Deputy Commissioner, Department of Revenue**
  Ed Eldridge, Director of Fiscal Services, Department of Revenue
  Karen Blackburn, Department of Revenue

- **Lynisse Patrick, Assistant Commissioner, Department of Education**

- **Marilyn Dillihay, Research Analyst, Senate State and Local Government Committee**

- **Robert Broome, Research Analyst, House Finance Ways and Means Committee**

- **Lawrence Hall, Research Analyst, House State and Local Government Committee**

- **Jackie Nash, Research Analyst, Senate Education Committee**

November 3-4, 1997 meeting

November 3rd Guest Speakers

- **Robert Ring (Williamson County Executive)**
- **Clinton Williams (Franklin Co Executive)**
- **Bob Keast (proposed incorporated Town of Birdsong)**
- **Kelly Brother (private citizen)**
- **Jeff Huffman (Tipton County Executive)**
- **Dave Ornduff (Elizabethton Planning Director)**
- **Lee Piovarcy (Southwind Homeowners Association)**
- **David Sanders (Fisherville Incorporation Committee)**
- **Mike Walker (Brentwood City Manager)**
- **Jim Voss (Fayettee County Mayor)**
- **John Kirk (FOCUS)**
- **Chuck Lincoln (Homebuilders Association)**
- **Ronald Michaels (proposed incorporated Town of Seymor)**
- **Fred Congden (Tennessee Association of County Executives)**
- **Tom Waychoff (President, Dickson Chamber of Commerce)**
- **Patrick Hickie (past Mayor of Bristol)**
- **Jerry Wolfe (Mayor of Bristol, Virginia)**
- **James Moody (Johnson City Assistant Manager)**
- **Webb Banks (Mayor of Brownsville)**
- **Danny Farmer (Mt. Juliet City Manager)**
- **Gordon Olswing (Shelby County)**
- **Jim Whittington (Mayor Selmer)**

November 4th Guest Speakers

- **Mayor Willie W. Herenton, Memphis**
  <u>The Case for an Urban Development Policy</u>

- **Representing the Tennessee Municipal League**
  Dan Speer, President
  Joseph Sweat, Executive Director
  Dr. Gene Pearson, Director of Graduate Program in City and Regional Planning, University of Memphis
  <u>The Economic Future of Tennessee: The Policy on Annexation and Incorporation</u>

December 16-17, 1997

December 16th guest speakers

- **Phil Guthe (private citizen)**
- **Thomas Varlan (Knoxville Law Director)**
- **Mayor Victor Ashe (Mayor of Knoxville)**
- **Bob Wormsley, Tennessee County Services Association**
  Doug Goddard, Tennessee County Commissioners Association
  Effects of Annexation & Incorporation on Situs Based Taxes
- **Thomas Schumpert, Knox County Executive**
  Corridor, Strip, and Checkerboard Annexation
- **Kathy Hamilton, Knox County Fiscal Officer**
  Fiscal Impact of Annexation
- **Dwight Van de Vate, Chief Deputy, Knox County Sheriff's Office**
  Law Enforcement Service Delivery
- **Julius Johnson, Executive Director, Tennessee Farm Bureau**

December 17th committee staff presentations

- **Phil Doss, Office of Research and Education Accountability, Comptroller's Office**
- **Eric Elms, Office of Research and Education Accountability, Comptroller's Office**
- **Nathan Ridley, Office of Legal Services**

APPENDIX 2.
TENNESSEE ANNEXATIONS, 1980 TO 1996

Number of Annexations, Tennessee Cities 1980-1996*

Adamsville	2
Alamo	3
Alcoa	31
Alexandria	1
Algood	4
Ardmore	1
Athens	21
Atoka	1
Atwood	4
Auburntown	5
Baileyton	1
Bartlett	14
Baxter	4
Bells	8
Bolivar	3
Braden	2
Brentwood	11
Bristol	39
Brownsville	16
Burns	2
Camden	5
Caryville	3
Centerville	1
Chattanooga	33
Church Hill	15
Clarksville	41
Cleveland	25
Clifton	1
Clinton	11
Coalmont	2
Collegedale	3
Collierville	25
Columbia	64
Cookeville	15
Cornersville	4
Covington	6
Cross Plains	7
Crossville	26
Dayton	41
Decatur	6
Decherd	2
Dickson	13
Dover	6
Dresden	5
Dyer	1
Dyersburg	18
Eagleville	3
Elizabethton	30
Elkton	7
Enville	2
Erwin	6
Estill Springs	2
Ethridge	1
Etowah	4
Fairview	44
Farragut	16
Fayetteville	16
Franklin	32
Friendship	1
Friendsville	3
Gainesboro	10
Gallatin	19
Gatlinburg	3
Germantown	96
Gilt Edge	1
Gleason	2
Goodlettsville	2
Grand Junction	1
Greenback	2
Greenbrier	8
Greeneville	22
Greenfield	3
Halls	5
Harriman	16
Hartsville	2
Henderson	4
Hendersonville	47
Henning	1
Henry	1
Hohenwald	4
Hollow Rock	4
Hornbeak	1
Humboldt	8
Huntingdon	5
Huntland	1
Huntsville	3
Iron City	1
Jacksboro	2
Jackson	26
Jasper	4
Jefferson City	32
Jellico	2
Johnson City	246
Jonesborough	3
Kenton	3
Kingsport	202
Kingston	8
Knoxville	591
La Follette	6
La Grange	1
La Vergne	9
Lafayette	7
Lake City	1
Lakeland	4
Lawrenceburg	16
Lebanon	47
Lenoir City	10
Lewisburg	12
Lexington	21
Livingston	4
Lobelville	3
Loretto	3
Loudon	21
Madisonville	1
Manchester	4
Martin	8

Maryville	42
Mason	2
McKenzie	6
McMinnville	18
Medina	1
Medon	1
Memphis	2
Michie	2
Middleton	3
Milan	6
Millersville	17
Millington	7
Minor Hill	2
Monteagle	2
Monterey	4
Morristown	103
Mosheim	12
Mount Carmel	8
Mount Juliet	16
Mount Pleasant	16
Mountain City	3
Munford	4
Murfreesboro	115
New Johnsonville	3
New Market	2
New Tazewell	3
Newbern	5
Newport	14
Niota	13
Oak Ridge	11
Oakland	1
Obion	1
Oliver Springs	4
Oneida	25
Orlinda	3
Palmer	1
Paris	12
Parker's Cross Road	1
Parsons	4
Pegram	2
Petersburg	1
Pigeon Forge	15
Pikeville	1
Piperton	1
Pittman Center	2
Portland	34
Pulaski	19
Puryear	1
Ripley	9
Rockford	1
Rockwood	9
Rogersville	18
Rutherford	3
Savannah	3
Scotts Hill	5
Selmer	2
Sevierville	55
Shelbyville	20
Signal Mountain	5
Slayden	1
Smithville	3
Smyrna	38
Sneedville	1
Soddy-Daisy	1
South Carthage	5
South Fulton	4
South Pittsburg	3
Sparta	6
Spring City	2
Spring Hill	39
Springfield	34
Stanton	1
Surgoinsville	2
Sweetwater	16
Tazewell	3
Tellico Plains	1
Tennessee Ridge	2
Tiptonville	1
Townsend	2
Tracy City	3
Trenton	2
Troy	1
Tullahoma	16
Tusculum	5
Union City	15
Vonore	1
Walden	1
Watertown	2
Waverly	1
White Bluff	1
White House	14
White Pine	8
Whiteville	1
Winchester	20
Winfield	3
Woodbury	5
Yorkville	2
Total	3255

*** Documentation of annexations in 1996 was not complete at the time this data was compiled. Those annexations catalogued through a portion of 1996 have been included in the above tally.**

**** Prepared by TACIR staff, based on data from the U.S. Census Bureau, Geographic Division, Boundary and Annexation Survey.**

Acreage, Housing Units, and Population Annexed Tennessee Cities, 1980-1996*

	ACREAGE ANNEXED
Average	82
Median	17
Minimum	less than .1
Maximum	4,474
Number of annexations with acreage of:	
less than 1	348
1-10	890
10.1-100	1145
100.1-1000	536
1000.1+	27

N=3,255/ Missing data (acreage unknown) = 309

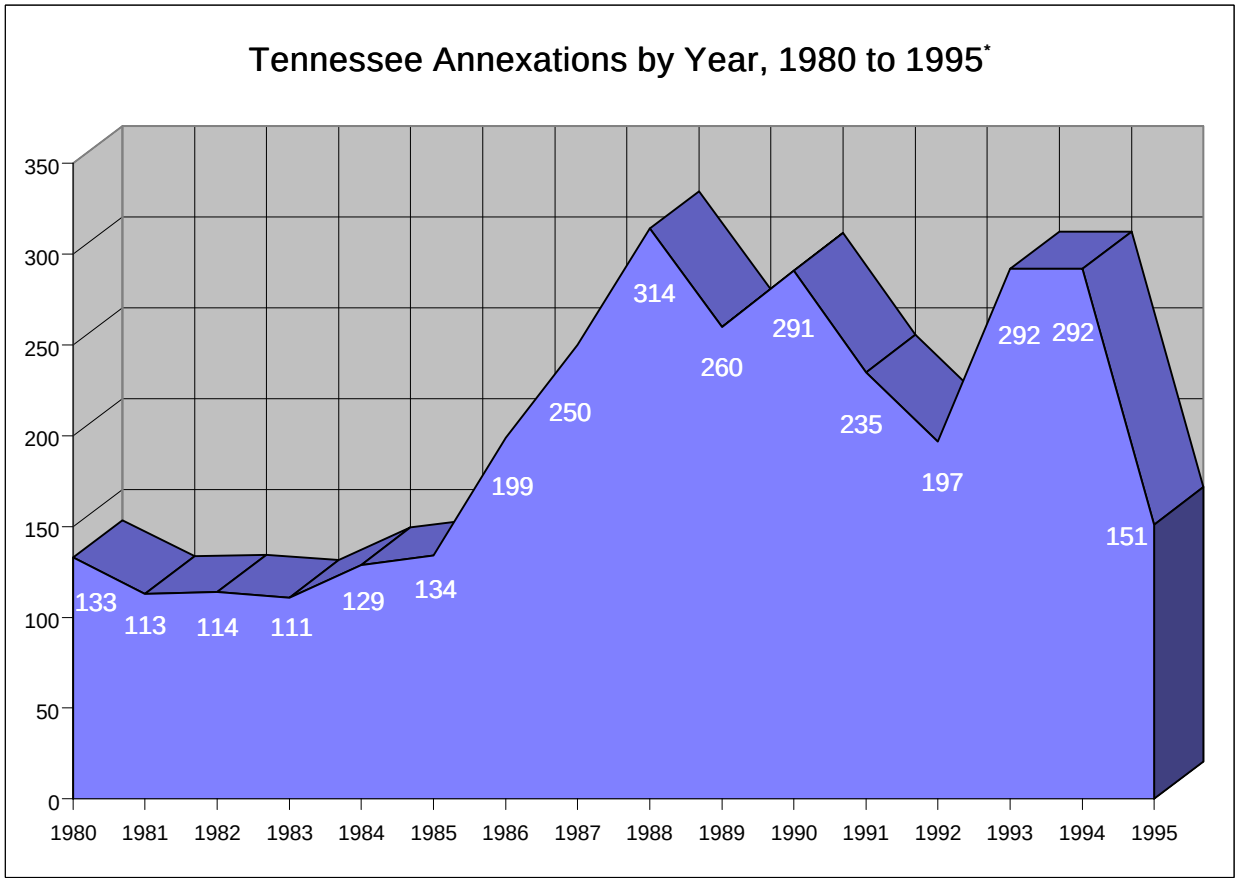
	HOUSING UNITS ANNEXED
Average	18
Median	1
Minimum	0
Maximum	3,608
Number of annexations including housing units numbering:	
0	1043
1-10	843
11-100	529
101-1000	81
1000+	2

N=3,255/ Missing data (housing units unknown) = 757

	POPULATION ANNEXED
Average	51
Median	3
Minimum	0
Maximum	7,951
Number of annexations with population of:	
0	1,105
1-10	543
11-100	569
101-1000	277
1000+	12

N=3,255/ Missing data (population unknown) = 749

Trends in Annexation



*** Data for 1996 is excluded from this chart as it is partial year only.**

APPENDIX 3.
ROAD MAP TO GROWTH POLICY UNDER PUBLIC CHAPTER 1101[85]

INTRODUCTION

The law calls for a comprehensive growth policy plan in each county in the State of Tennessee that outlines anticipated development during the next 20 years. The initial draft of the growth plan is formulated by a Coordinating Committee. The county and cities may propose boundaries for inclusion in the plan.

HOW TO GET STARTED

- **Establish a Coordinating Committee**
- **The committee becomes effective Sept. 1, 1998**

IF NO COMMITTEE HAS BEEN FORMED TO DATE

- **The County Executive or a Mayor of a city within the county should call a meeting. This meeting should include all obvious members of the Coordinating Committee (County Executive, Mayors, etc. See list below). When a member of a category is not obvious then multiple possible members should be invited to the first meeting.**

The membership of the Coordinating Committee is to include:

Category	Number
County Executive (or designee confirmed by county legislative body)	1
Mayor of each municipality in the county (or designee confirmed by governing body)	1 (minimum)
One member appointed by the governing board of the largest municipally-owned utility	1
One member appointed by the governing board of the largest non-municipally-owned utility	1
One member appointed by the board of directors of the county's soil conservation district (representing agricultural interests)	1
One member appointed by the board of the local education agency having the largest student enrollment	1
One member appointed by the largest chamber of commerce (after consulting others)	1

[85] This Appendix was originally developed by a working group of the Implementation Steering Committee. It is intended to be used by Coordinating Committees and local governments in need of assistance in proceeding with the development of a growth plan. However, the steps listed herein are only suggestions, and should not be construed as a mandated course of action. Since Public Chapter 1101 is a local prerogative act, each county will likely develop its own model for implementation of the Act.

Two members appointed by the county executive (representing environmental, construction, and homeowner interests)	**2**
Two members appointed by the mayor of the largest municipality (representing environmental, construction, and homeowner interests)	**2**

Ultimately this scheme will produce a committee with a minimum of 11 members. The membership will be as high as 20 or 21 in some counties, depending on the number of municipalities.

Alternatives to the Coordinating Committee include:

(1) Alternative Coordinating Committees by Agreement of County and Cities
The governing bodies of the county and each city within the county can all agree that another entity shall perform the duties of the Coordinating Committee.

(2) Special-Case Counties
In any county where the largest city is at least 60 percent of the county population and no other city's population is larger than 1,000, the Coordinating Committee is the planning commission of the largest city, combined with the planning commission of the county. In addition, the mayor of the largest city and the county executive can jointly appoint as many additional members as they determine are necessary. This alternative applies to Madison and Montgomery Counties.

(3) Counties with Metropolitan Governments
Counties with Metropolitan Governments (Davidson and Moore) are not required to appoint a committee or develop a plan. Any city that is in a county with Metropolitan Government and also in another county must participate in the second county's planning process. This applies only to Goodlettsville, which is in both Davidson and Sumner Counties, and Ridgetop, which is in Davidson and Robertson Counties.

WHEN LIST OF ENTITIES TO INVITE HAS BEEN DETERMINED

- **A meeting date should be set. A notice of the meeting must be published in a county newspaper at least one week prior to the meeting.**
- **Notify entities and request the selection of a designee via letter. Planning Commissions and technical assistance providers (MTAS, CTAS, TACIR, Development District, Local Planning)**

THE FIRST MEETING

- **Call meeting to order**
- **Elect temporary Chairman to lead meeting and Secretary to take minutes**
- **Collect names and addresses of all members**
- **Invite technical assistance providers to provide a brief overview of PC 1101 to include: purpose, goals, implementation and what needs to be done by the Coordinating Committee**

IF COMMITTEE IS ESTABLISHED:

- **Invite technical assistance provider(s) to provide a detailed overview (about 1 hour) of PC 1101. (If committee is not established this should take place in Meeting Two)**

IN EITHER OF THE ABOVE SITUATIONS:

- **Set date for next meeting - within one month of first meeting**
- **By second meeting: final selection of members of the Coordinating Committee should be complete**
- **Send notice of 2nd meeting to all parties and publish an announcement in a newspaper of general circulation in the county**

MEETING TWO

- **Establish permanent procedures and rules of order (by laws)**
- **Select a permanent Chairperson and officers**

EITHER:

- **Provide complete overview of PC 1101 (if not done in first meeting)**

OR

- Begin to develop a countywide comprehensive growth policy plan (this may be Meeting Three)

GROWTH POLICY PLAN DEVELOPMENT

- **Determine who will provide information required by Section 7.**
- **Establish a timeline/deadlines for receiving information.**

- **Schedule future meetings. One meeting per month is recommended to be sure everything is on target. At this time share progress reports, discuss problems, and adjust assignments.**

The following information should assist in determining who should provide what information:

MUNICIPALITIES:

- **Each municipality proposes an Urban Growth Boundary (UGBs). They collect data and develop suggested UGB.**
- **Each municipality must hold two public hearings with at least 15 days advance notice in a newspaper of general circulation in the city before formally proposing its UGB to the Coordinating Committee.**

COUNTY:

- **The county proposes Planned Growth Areas (PGAs). They collect data and develop suggested PGA.**
- **Each county must hold two public hearings with at least 15 days advance**

notice in a newspaper of general circulation in the county before formally proposing its PGA to the Coordinating Committee.

- **The county will also propose the Rural Areas (RAs). They collect data and develop suggested RA.**
- **Each county must hold two public hearings with at least 15 days advance notice in a newspaper of general circulation in the county before formally proposing its RA to the Coordinating Committee.**

SUGGESTED COORDINATING COMMITTEE ACTIVITIES WHILE DATA IS BEING COLLECTED:

- **Research logical places for boundaries in the county.**
- **Educate committee with data collector information shared at monthly meetings. If cities fail to select boundaries it will be the responsibility of the Coordinating Committee to collect data and draw boundaries.**

WHEN BOUNDARIES HAVE BEEN SELECTED BY MUNICIPALITIES AND COUNTY AND HEARINGS ARE COMPLETE:

NO DISPUTES

- **Boundary lines for the UGBs, PGAs and RAs are submitted to the Coordinating Committee by the municipalities and county.**
- **The Coordinating Committee will hold two public hearings with at least 15 days advance notice in a newspaper of general circulation in the county. After the hearings, and no later than Jan. 1, 2000, the Coordinating Committee will submit its recommended growth plan to the governing bodies of the county and of each municipality in the county for their approval. (In the case of a municipality surrounded by one or more municipalities, the municipality's corporate limits are its UGB, and the city will not have a vote on the plan).**

  In developing the plan, the legislation encourages the Coordinating Committee to seek the assistance of local planning resources, the state Local Planning Office, CTAS, and MTAS.

- **No later than 120 days after receiving the recommended growth plan from the Coordinating Committee, the county and municipal governing bodies in the county must either ratify or reject the plan. The failure of a county or municipality in the county to do one or the other within the 120 days serves as a ratification of the recommended growth plan.**
- **No later than July 1, 2001, the growth plan ratified by the county and cities within the county, or adopted by the dispute resolution panel, must be submitted to and approved by the Local Government Planning Advisory Committee (LGPAC).**
- **If the growth plan was recommended by the Coordinating Committee and**

ratified by the county and all cities, then the LGPAC grants approval of the plan automatically.

IF PLAN IS REJECTED BY ANYONE:

- **If a city or county rejects the recommended growth plan, it must submit its objections and supporting reasons to the Coordinating Committee for reconsideration.**
- **Following reconsideration of the recommended growth plan, the Coordinating Committee may submit to the county or city a revised recommended growth plan or its original recommended growth plan.**

In resolving disputes between cities over UGBs, the committee is directed to favor the municipality that is "better able to efficiently and effectively provide urban services within the disputed territory."

- **If a city or county rejects whichever plan the Coordinating Committee submits to it the second time, the county or any municipality may declare an impasse, and ask the Tennessee Secretary of State to appoint a dispute resolution panel.**
- **In the event of a dispute resolution request, the Tennessee Secretary of State must promptly appoint a dispute resolution panel.**
- **The panel will attempt to mediate the dispute. If resolving the dispute by mediation fails, the panel would then propose a non-binding resolution to the county and the cities.**
- **The county and the cities have a reasonable time to consider the resolution and either adopt or reject it. If the county and/or the city governing bodies reject the resolution, they must then submit their final recommendations to the panel. Then, "for the sole purpose of resolving the impasse the panel shall adopt a growth plan."**

No later than July 1, 2001, the growth plan ratified by the county and cities within the county, or adopted by the dispute resolution panel, must be submitted to and approved by the Local Government Planning Advisory Committee (LGPAC).

If the growth plan was recommended by the Coordinating Committee and ratified by the county and all cities, then the LGPAC grants approval of the plan automatically.

If the growth plan resulted from the dispute resolution process, the LGPAC approves growth plans only if the UGB, PGA, and RA boundaries conform to the requirements contained in the law. If the LGPAC determines that the UGB, PGA, and RA boundaries do not conform to those requirements, it may adopt alternative UGB, PGA, and RA boundaries for the sole purpose of ensuring that they comply with the requirements of the law.

After approval of the plan, a copy is sent to the county executive, who in turns files the plan in the county register's office.

Once a growth plan has been formulated and approved by the LGPAC, the plan will stay in effect for three years, "absent a showing of extraordinary circumstances."

APPENDIX 4.
RECOMMENDED MINIMUM REQUIREMENTS TO COMPLY WITH SECTION 7 OF THE ACT[86]

Section 5(a)(2) of Public Chapter 1101 requires that urban growth boundaries, planned growth areas, and rural areas recommended by the Coordinating Committee must all conform to the provisions of Section 7 of the Act. In Section 7, local governments are directed to identify certain characteristics or attributes of an area before that area receives its recommended designation. The purpose of the following is to provide information that will assist local governments carry out their respective responsibilities in Section 7. This additional information has been arranged in basic "steps" with each step containing elements that must be considered in the process of identifying and recommending urban growth boundaries, planned growth areas, and rural areas.

I. URBAN GROWTH BOUNDARY
Responsibility of the Municipal Government

Step 1. Existing Land Use Inventory and Analysis Including Land Capability/Suitability

The first step in determining an urban growth boundary is an inventory and analysis which includes a discussion of the following areas:

- **Land development capability/suitability based on physiographic limitations including topography, bodies of water and flood hazard, karst geology, regulatory wetlands, etc.;**
- **Unimproved and improved vacant land;**
- **Existing residential, commercial and industrial land;**
- **Land devoted to existing or proposed transportation systems; and**
- **Existing land devoted to agricultural, forest, recreation and wildlife management uses.**

---

[86] **This Appendix originally appeared in *Growth Policy, Annexation, and Incorporation Under Public Chapter 1101 of 1998: A Guide for Community Leaders*. September 1998 reprint. A Joint Publication of The University of Tennessee Institute for Public Service and its agencies: County Technical Assistance Service, Municipal Technical Advisory Service, and Center for Government Training; and The Tennessee Advisory Commission on Intergovernmental Relations. The document was originally drafted by Don Waller and Phil Maples, Department of Economic and Community Development, Local Planning Office, and was subsequently approved for publication by the Implementation Steering Committee.**

Included in this first step is the preparation of a report that describes the need for additional land outside the municipality for high density development after the available land within the municipality has been used, reused or redeveloped, and describes the likely long term effects of urban expansion on agricultural, forested, recreational and wildlife management lands.

Step 2. Urban Public Services Inventory and Analysis

In addition to the land use analysis in Step 1, identification of an urban growth boundary also requires an inventory and analysis of services, which should include the following:

- **Police protection;**
- **Fire protection;**
- **Water service;**
- **Electrical service;**
- **Sanitary sewer service;**
- **Solid waste collection;**
- **Road and street construction and repair;**
- **Recreational facilities and programs;**
- **Street lighting; and**
- **Zoning services.**

The first ten items are identified in PC1101 as the minimum but other services a municipality provides would apply.

The municipality should also prepare a report that identifies the current costs and projected costs for urban services and infrastructure required to accommodate the full potential of complete development within the municipality and throughout the territory under consideration for inclusion within the Urban Growth Boundary.

Step 3. Identification of Territory for Urban Growth Boundary

The data and analysis derived from Steps 1 and 2, used in conjunction with the UT population projections, are used to identify territory that: (1) is reasonably compact yet sufficiently large to accommodate residential and non-residential growth projected to occur in twenty years, (2) is contiguous to the existing municipal corporate boundary, (3) a reasonable person, based upon historical experience, economic trends, and topographical characteristics, would project as the likely site of high density growth over the next twenty years, (4) the municipality is better able and prepared to provide efficient and effective urban services, and (5) reflects the municipality's duty to facilitate full development of resources inside the municipality, manage and control urban expansion outside the municipality while taking into account the impact to agricultural lands, forests, recreational areas, and wildlife management areas.

II. PLANNED GROWTH AREA
Responsibility of the County Government

Step 1. Existing Land Use Inventory and Analysis Including Land Capability/Suitability

The first step in the determination of a planned growth area is a land use inventory and analysis which includes a discussion of the following factors:

- **Land development capability/suitability based on physiographic limitations including topography, bodies of water and flood hazard, karst geology, regulatory wetlands, etc.;**
- **Unimproved and improved vacant land;**
- **Existing residential, commercial and industrial land;**
- **Land devoted to existing or proposed transportation systems; and**
- **Existing land devoted to agricultural, forest, recreation and wildlife management uses.**

Also included is the preparation of a report that describes the need for additional land outside the municipality for high density development after the available land within the municipality has been used, reused, or redeveloped to meet such needs, that determines the likelihood that proposed PGA's will eventually incorporate or be annexed, and describes the likely long term effects of urban expansion on agricultural, forested, recreational and wildlife management lands within the PGA.

Step 2. Urban Public Services Inventory and Analysis

In addition to the consideration of land use in Step 1, the process of identifying a planned growth area also requires an inventory and analysis of services, which should include the following:

- **Police protection;**
- **Fire protection;**
- **Water service;**
- **Electrical service;**
- **Sanitary sewer service;**
- **Solid waste collection;**
- **Road and street construction and repair;**
- **Recreational facilities and programs;**
- **Street lighting; and**
- **Zoning services.**

The first ten items are the "urban type" services identified and other urban services may apply.

This step also includes the preparation of a report that identifies the current costs and projected costs for urban services and infrastructure required to accommodate the full potential of complete development throughout the territory under consideration for inclusion within the Planned Growth Area including the feasibility of recouping such cost through fees or taxes within the PGA.

Step 3. Identification of Territory for Planned Growth Area

The data and analysis derived from Steps 1 and 2 used in conjunction with the UT population projections, are used to identify territory that: (1) is reasonably compact yet sufficiently large to accommodate residential and non-residential growth projected to occur in twenty years, (2) is not within the existing boundaries of any municipality, (3) a reasonable person, based upon historical experience, economic trends, and topographical characteristics, would project as the likely site of high or moderate density growth over the next twenty years, (4) identifies territory that is not contained within municipal urban growth boundaries, and (5) reflects the county's duty to manage and control urban growth while taking into account the impact to agricultural lands, forests, recreational areas, and wildlife management areas.

III. RURAL AREA
Responsibility of the County Government

Step 1. Identification of Rural Area

Along with the identification of planned growth areas, the county is to identify rural areas by defining territory that: (1) is not within urban growth boundaries, (2) is not within planned growth areas, (3) is to be preserved as agricultural, forest, recreational, wildlife management or uses other than high density commercial, industrial or residential development over the next twenty years, and (4) reflects the county's duty to manage and control urban growth while taking into account the impact to agricultural lands, forests, recreational areas, and wildlife management areas.

APPENDIX 5.
POPULATION PROJECTION METHODOLOGY[87]

State, County, and City Population Projections for the State of Tennessee

1. Statistical Techniques

The projections of state, county, and city population through 2020 have been generated in three stages. First, projections of population for each of Tennessee's 95 counties are produced. These county projections are then summed to obtain the state population projection. Finally, the city projections are generated by combining forecasts of each city's share of its county's population with the projected county population. The statistical techniques used to generate the county and city projections are detailed below.

County Projections

The county population projections are based on the following definition of annual population change:

change in population = births - deaths + net migration

Given this relationship, the county projections are generated by first producing projections of births, deaths, and net migration by county. From these forecasted components of population change, forecasts of the annual change in county population, and of annual total county population, are easily calculated.

The forecasts of births, deaths, and net migration are generated using a statistical model referred to as a *vector autoregression*, or *VAR*. A *VAR* is a sophisticated yet convenient statistical model used to capture the evolution of a set of related variables over time. Because it is used to model the evolution of variables over time, a *VAR* is referred to as a *time series* model. It is highly appropriate to model a set of variables using a *VAR* when it is believed that the primary force determining the values of a variable are the past values of the variable itself, as well as interactions with other related variables.

---

[87] **The entirety of this appendix is reprinted from Matt Murray, *Population Projections for Tennessee Counties and Municipalities: 2000-2020*, Center for Business and Economic Research, College of Business Administration, University of Tennessee, Knoxville, January 1999. The text has not been edited or enhanced, except for formatting changes made for the purposes of consistency with other sections of this document.**

Generally, time series models such as the *VAR* have been shown to be highly effective tools for forecasting a small set of variables over a relatively long period of time. A primary benefit of using a *VAR* to produce a forecast is that all information necessary to generate the forecast is present in the *VAR* model. That is, no external data are required to forecast from a *VAR*. An alternative approach to forecasting population would be to develop a *structural* model which attempts to fully describe all determinants of population growth. A structural model would need to include a large number of variables such as: infrastructure provision, local area income and employment, education, and so on. In other words, factors that explain fertility and death rates, and the factors that repel and attract people (i.e., net migration).

The use of such a model to accurately forecast population would entail two largely intractable steps: detailing the impacts of these variables on population growth (or its components), and developing forecasts of *each* of these variables for the purpose of forecasting population itself. Thus, forecasting population using a structural model requires first generating forecasts of every variable which has an impact on population and its component parts. These external forecasts will of course be obtained with some degree of uncertainty, compounding the uncertainty surrounding the population forecast itself. In contrast, the *VAR* does not require external forecasts, and indeed *VAR* models often produce forecasts which are superior to those produced by large structural models. The U.S. Bureau of the Census maintains both a time series and a structural model for developing forecasts of state population. They explicitly prefer the time series model, for the reasons outlined above, as well as for more technical statistical concerns.

Several statistical checks and adjustments have been performed on the forecasts of county variables to help ensure their accuracy. These adjustments are necessary in some cases because of the relatively short data history available. A short data history may lead to raw forecasts of population components which are clearly (from a statistical point of view) unreliable. If this is the case, a simple statistical adjustment is performed which produces a more reliable forecast. These statistical adjustments involve examining the births, deaths, and net migration forecasts for each county and modifying the results when necessary.

First, the forecast of births for each county is considered. If this forecast displays either an upward or downward trend in births which is significantly different from the historical births trend, the forecast is adjusted to reflect the historical trend. This same check and adjustment is also used in the case of the county deaths forecasts. In contrast, the net migration series often does not display clear historical trends as do the births and deaths variables. To determine if the net migration forecast for a county needs to be adjusted, the final period net migration value is compared with the historical average value of net migration. If the *VAR* has produced a statistically unreliable forecast, these two values should be

significantly different. If they are, the net migration series is adjusted by extending the historical average net migration throughout the entire forecast.

Once the population component forecasts for each county have been examined, and adjusted when necessary, the forecasted annual change in population and the resulting annual total population is calculated. Aside from the statistical checks outlined above, the county projections have been examined in light of two additional factors: population density and group quarters population. First, the projected 2020 population density for each county is compared with the county's own current population density, and with that for all of the other counties in the state. This check serves to identify counties with an unsustainable projected growth in population. Second, each county is examined for recent large changes in group quarters population, which will result in recent erratic behavior of the county's net migration series. If a county experienced an unusual change in group quarters population, such as the addition of a prison, the county's net migration series is adjusted accordingly. Therefore, the county projections are not affected by one-time changes in group quarters population.

After the county projections have been thoroughly scrutinized, they are summed to obtain the state population projection. The county population projections also serve as the foundation for the city population projections, as detailed below.

City Projections

The general approach to projecting city population is to first produce forecasts of each city's share of its respective county's total population. Given these forecasted shares, and the previously generated county population projections, the city population projections are easily calculated. More specifically, the forecasts of city population shares have in most cases been produced by extrapolating the historical trend of the city population share.

Efforts were made to ensure that the city population projections take into account recent annexations and other recent sources of city population change. This is accomplished by comparing the city's 1998 certified population with the Census Bureau population estimate for 1996. If the 1998 population is higher than the 1996 estimate, the city's population forecast is adjusted upward to reflect the higher level of population.

For those cities which had zero population through 1996, the population projection is generated by extending the 1998 city population share which is based on the 1998 certified population.

2. Data Sources

County Projections

The 1970, 1980 and 1990 Decennial Censuses of Population, collected and published by the Bureau of the Census, U.S. Department of Commerce, provide the core data for the county projections. Estimates for intercensal years, 1971-1979, 1981-1989, and 1991-1997, were also produced and published by the Population Division of the Census Bureau.

The components of change "births, deaths, and net migration" are detailed on the Census Bureau web site for the years 1980-1996. These data were used as reported with the exception that 1980 births and deaths were adjusted to equal a 12-month period (July 1980-June1981) rather than a 15-month period (April 1980-June 1981).

Data on births and deaths for 1970-1980 are not available from the Census Bureau. For these years, details of births and deaths *by county of residence are those reported annually in* Tennessee Vital Statistics by the Tennessee Department of Health. Also, net migration data for 1970-1980 were computed by the Center for Business and Economic Research as a residual of the later year's population less the earlier year's population adjusted for natural increase (births minus deaths).

Information on persons living in Group Quarters from 1990 to 1997 are also from the Census Bureau. Prison populations, as well as prison capacities, are detailed in the *Annual Report*, Tennessee Department of Corrections.

Finally, measures of population density incorporate the area measurements for counties as reported in the 1990 Census of Population.

City Projections

The 1990 Census counts, and Census estimates for 1991-1996, are the core data for the city population projections. These data are from the Bureau of the Census, U.S. Department of Commerce, and can be found on the Census Bureau web site. These data were supplemented by information on annexations and special censuses from the "*1998 Certified Population of Tennessee Counties*" compiled by the Tennessee Department of Economic and Community Development, Local Planning Assistance Office.

APPENDIX 6.
COUNTY GOVERNMENT DAY SURVEY RESULTS[88]

Based on the informal survey of county officials participating in County Government Day 1999, it is apparent that the vast majority of officials feel informed about the goals and purposes of Public Chapter 1101. Further, a majority of officials feel that they do not need additional information about the goals and purposes of the Act.

County officials have a far greater level of understanding about the role of the county Coordinating Committees as compared to that of the Joint Economic and Community Development Boards. Approximately two-thirds of county officials report an understanding of Coordinating Committee duties, whereas, a majority of county officials do not understand the requirement for the Joint Economic and Community Development Boards.

While a majority of county officials understand the role of the Coordinating Committee, a majority of officials also report a need for technical assistance in the implementation of Public Chapter 1101.

Among those responding, a majority of officials report that there are certain sections of the Act that are a cause for concern, though many reported no concerns or did not respond.

The vast majority of county officials expect their coordinating committee to meet the deadline for the submission of a plan for ratification. A majority of county officials also report making progress on the creation of the Joint Economic and Community Development Board in their county.

What follows are the questions posed in the survey accompanied by a summary of the responses of county executives and county commissioners.

---

[88] During County Government Day 1999, Dr. Harry A. Green, Executive Director of the Tennessee Advisory Commission, was asked to make presentations on Public Chapter 1101 to county executives and county commissioners. After the presentations, an informal survey was submitted to county executives and county commissioners. While not scientific, the survey was intended to provide some insight into the views and opinions held by county officials with regard to the implementation of Public Chapter 1101. Provided in this Appendix are the questions and responses by county executives and county commissioners participating in the annual County Government Day event held in Nashville.

1. **Are you informed about the goals and purposes of the growth planning law (Public Chapter 1101)?**

Yes ____ No _____

	Yes	No	No answer
County Executives	20	0	0
County Commissioners	29	14	0
Total	49	14	0

2. **Do you need more information about the goals and purposes of Public Chapter 1101?**

Yes _____ No _____

	Yes	No	No answer
County Executives	5	15	0
County Commissioners	25	18	0
Total	30	33	0

3. **Do you understand the duties of the Coordinating Committee?**

Yes _____ No _____

	Yes	No	No answer
County Executives	19	1	0
County Commissioners	22	20	1
Total	41	21	1

4. **Do you understand the requirement of the Joint Economic and Community Development Board?**

Yes _____ No _____

	Yes	No	No answer
County Executives	12	8	0
County Commissioners	15	27	1
Total	27	35	1

5. **Are you informed about the membership requirements and duties of the Joint Economic and Community Development Board?**

Yes _____ No _____

	Yes	No	No answer
County Executives	9	11	0
County Commissioners	14	28	1
Total	23	39	1

6. **Do you currently need technical assistance services to help your county implement Public Chapter 1101?**

Yes _____ No _____

	Yes	No	No answer
County Executives	9	10	1
County Commissioners	26	13	4
Total	35	23	5

7. **Are there provisions of Public Chapter 1101 that cause you particular concern?**

Yes _____ No _____

	Yes	No	No answer
County Executives	6	13	1
County Commissioners	15	16	12
Total	21	29	13

8. **Will your county Coordinating Committee be able to meet the January 1, 2000 deadline for submitting the growth plan to the county and each city for ratification?**

Yes _____ No _____

	Yes	No	No answer
County Executives	20	0	0
County Commissioners	27	6	10
Total	47	6	10

9. **Have you made progress on the creation of the Joint Economic and Community Development Board?**

Yes _____ No _____

	Yes	No	No answer
County Executives	12	8	0
County Commissioners	16	12	15
Total	28	20	15

State of Tennessee
Policy of Non-Discrimination

Pursuant to the State of Tennessee's policy of non-discrimination, the Tennessee Advisory Commission on Intergovernmental Relations does not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, disability, or military service in its policies, or in the admission or access to, or treatment or employment in, its programs, services or activities.

Equal Employment Opportunity/Affirmative Action inquiries or complaints should be directed to the Tennessee Advisory Commission on Intergovernmental Relations EEO/AA Coordinator or Officer, Suite 508, 226 Capitol Blvd. Bldg., Nashville, TN 37243, (615) 741-3012. ADA inquiries or complaints should also be directed to the Tennessee Advisory Commission on Intergovernmental Relations, ADA Coordinator, Suite 508, 226 Capitol Blvd. Bldg., Nashville, TN 37243, (615) 741-3012.

TACIR, (3/99);
Publication Authorization Number 316316;
2000 copies. This public document
was promulgated at a cost of $1.31 each.